



An
Bord
Pleanála

Inspector's Report ABP-314842-22

Development	Demolition of the existing dwelling and the construction of a new detached dwelling.
Location	Dwelling referred to as 'The End', Carrickbrack Road, Howth, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F22A/0321.
Applicant	Paul and Aoife Hill.
Type of Application	Permission.
Planning Authority Decision	Grant of Planning Permission.
Type of Appeal	Third Party v Grant of Planning Permission.
Appellant	Hillwatch.
Observer(s)	None.

Date of Site Inspection

22/04/2023.

Inspector

Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is 'The End', Carrickbrack Road, Howth, Co. Dublin. The site is located on the southern side of Carrickbrack Road and immediately to the west of the junction with Thormanby Road. The site is served by an existing vehicular entrance at the western end of the roadside boundary which leads to an access road/ramp which is elevated in parts and supported by concrete pillars. The driveway slopes downward in a spiral fashion due to the steep topography of the site and provides access to the existing dwelling referred to as 'The End' which is centrally located within the site. There is also an existing single storey structure in the north-western corner of the site, adjacent to the vehicular entrance and at a lower level than the public road known as 'The Shack'. The appeal site has a stated area of c. 1.077ha.
- 1.2.** The existing dwelling on site was designed by Architect Andrew Devane and has a single storey form with an external spiral stair case leading to a roof garden. Extensions have been added to either side of the dwelling, as permitted under Reg. Ref. F97B/0577. The existing dwelling is currently uninhabited, and I observed the exterior of the building to be generally in a poor state or repair. A car parking area is located on the northern side of the dwelling and a garden area which is currently overgrown is located to the west, east and south of the dwelling. Lands further to the south are characterised by dense vegetation. The dwelling is also served by a timber deck which is located on the dwelling's southern side.
- 1.3.** Due to the steep topography of the site, there is a level difference of c. 36m between the roadside boundary and the site's southern boundary which it shares with the Howth Cliff Walk. There is an existing pedestrian gate to the Howth Cliff Walk at the eastern end of the site's southern boundary. There are a large number of mature trees across the appeal site, the majority of which are located within the northern portion of the site, proximate to the internal access ramp. Views of the existing dwelling from Carrickbrack Road are obscured by the existing tree cover and the variation in site levels.
- 1.4.** In terms of the site surrounds, there are large, detached dwellings to the east and west of the site (a dwelling known as 'Journey's End' and a convent/retreat house 'Stella

Maris', respectively). Both of these dwellings are positioned closer to Carrickbrack Road than the existing dwelling on the appeal site. A number of large, detached dwellings are also located further to the east on the southern side of Thormanby Road.

2.0 Proposed Development

2.1. Planning permission is sought for the demolition of the existing single storey dwelling (c. 225sq.m.) and construction of a new part two/part three storey detached dwelling over lower ground floor level. The proposed dwelling as originally proposed had a stated floor area of c. 1,073sq.m. and was laid out as follows:

- Lower Ground Floor Level
 - o Gym;
 - o Cinema;
 - o Wine cellar;
 - o WC;
 - o Bedroom with ensuite; and,
 - o Plant and garden store.
- Upper Ground Floor Level
 - o Entrance Hall;
 - o Boot Room;
 - o Drawing Room;
 - o Breakfast room;
 - o Family room;
 - o Dining Room;
 - o Snug;
 - o Conservatory;
 - o WC; and,
 - o Pantry.
- First Floor Level
 - o 2 no. ensuite bedrooms; and,
 - o Master ensuite bedroom with south facing terrace.
- Second Floor Level
 - o Ensuite bedroom; and,

- Linen room.

- 2.2.** The dwelling is served by an external terrace which is accessible from the upper ground floor level and is located on the dwelling's southern side. An external staircase leads from the south facing terrace to the lower ground floor level. A surface level car parking area is proposed on the northern side of the dwelling and a series of steps lead from this area to the upper ground floor level entrance. An accessible pedestrian ramp is also located on the dwelling's northern side. The proposed dwelling will have a contemporary architectural expression with a pitched roof form and materials and finishes will comprise a combination of brick, painted render and stone cladding for the principal elevations with a standing seam copper clad roof.
- 2.3.** The dwelling is proposed to be sited further to the north of the location of the existing dwelling and shall be accessed via the reconfigured entrance and elevated driveway as permitted under Reg. Ref. F19A/0126 (ABP-305480-19). The dwelling is set back c. 61m from the existing Carrickbrack road side boundary and c. 56m from the southern boundary which it shares with the Howth Cliff Walk. The dwelling has a maximum height of c. 12.3m.
- 2.4.** The proposal was modified at additional information stage through the reduction in the scale of the terrace on the western elevation; the omission of the second floor level; the extension and reconfiguration of the lower ground floor level; and amendments to the proposed car parking area and relocation of the accessible pedestrian ramp.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council granted planning permission for the proposed development subject to compliance with a total of 14 no. conditions.

Conditions of note included:

Condition 2.

The proposed angular pop up within the central roof profile serving the void area at first floor level shall be omitted.

REASON: In the interest of the proper planning and sustainable development of the area.

Condition 4.

Windows serving bathroom, W.C.'s, en-suites etc and as otherwise indicated, including within the western elevation serving bedroom no. 2 shall be fitted and permanently maintained with obscure glass, use of film is not acceptable.

REASON: In the interest of residential amenity.

Condition 6.

The developer shall comply with the following requirements of the Planning Authority;

- (a) Prior to the commencement of any development the developer shall undertake a comprehensive Analytical Record of The End. A copy shall be lodged with the Conservation Office of Fingal County Council and with the Irish Architectural Archive. The recording of the building shall adhere to Recording Level 4 as set out in the Historic England publication 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016). The Comprehensive Analytical Record shall be an independent document that is a full written and visual record of the building. The written record shall include an analysis of all the documents and drawings related to the building within the Robinson Keeffe Devane archive. The visual record shall consist of measured survey drawings of the plans, sections and elevations along with a detailed photographic survey of the exterior and all internal spaces. Photographs shall include images of any surviving internal or external features specifically noted on Devane's original drawings. The record shall include an evaluation of the context and the contribution of The End to Devane's body of work and 20th century Irish architecture in general. The input of a specialist in 20th century Irish architecture who have written in this area maybe required.

REASON: In the interest of the proper planning and sustainable development of the

area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Fingal County Council Planning Reports form the basis for the decision. The First Planning Report indicates that the Planning Authority is generally satisfied that the principle of development is acceptable at this location and the siting of the dwelling further to the north with the RS zoned land is welcomed. Notwithstanding the commentary of the Planning Authority's Conservation Officer, the demolition and replacement of the dwelling is considered acceptable given the poor condition of the dwelling and a suitable condition is recommended for a comprehensive analytical record of the dwelling to be carried out before it is removed. Notwithstanding the foregoing, further information was requested with respect to the following matters:

- The proposed external terrace along the western side of the dwelling be reduced in scale to provide for an 11m separation off the mutual boundary.
- The side window proposed to serve bedroom no. 2 on the western elevation at first floor level should either be omitted or replaced with obscure glazing.
- The omission of the projecting second floor volume.
- Simplification of the materials proposed to be used, including those in the same plane and those expressing the same function i.e. balconies.
- Further details with respect to the onsite wastewater treatment system (OSWWTS).
- Amendments to the proposed car parking area so that they are located outside of the calculated tree RPA's or reduced to 3 no. spaces to minimise the impact on root protection areas.

Following the submission of the additional information and amendments to the proposal, the Planning Authority deemed the proposed development to be acceptable subject to compliance with 14 no. conditions.

3.2.2. Other Technical Reports

Architect's Department: Initial report requested additional information with respect to a simplification of the materials and finishes, the omission of the second floor level and

the integration of the original core design of the existing dwelling into the design of the private amenity spaces. Additional report on file which notes that the issues raised have been satisfactorily addressed.

Conservation Officer: Report recommended revisions to the design of the proposed development so that the existing dwelling on site is retained and it was suggested that the gym could be incorporated within the original building. A suitable condition was also recommended in the event of a grant of planning permission for the development as proposed.

Environment: Required confirmation details for various waste streams during site clearance/demolition and construction phases and any proposed exportation/importation of soil and stone material including destination/source locations, materials etc.

Parks and Green Infrastructure: Recommended conditions in the event of a grant of planning permission.

Transportation: No objection to the proposed development.

Water Services: No objection to the proposed development subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection subject to compliance with a condition.

3.2.4. Third Party Observations

13 no. observations were received by third parties. I note that the majority of observations received lend their full support for the proposed development and highlight that the proposals are in accordance with the policy of the County Development plan and the Howth SAAO. The issues raised within the observations can be summarised as follows:

- The loss of the existing dwelling which is of considerable architectural merit.
- The overall scale of the dwelling which is c. 4 times the size of the original, and would have a significant negative impact, both on the views from the Howth Cliff Walkway and from Dublin Bay.
- Potential for overlooking from the proposed terrace on the eastern side of the dwelling.
- The replacement dwelling represents a material contravention of the County Development Plan and the Howth Special Amenity Area Order (SAAO) given its overall size.

Two (2) no. further observations were received following the submission of additional information. The matters raised can be summarised as follows:

- The proposed development fails to accord with and the underlying planning controls with respect to density and the requirement for a replacement house to not exceed 20% of the floor area of the original house.
- The development should be refused given the architectural significance and merit of the existing dwelling.
- The supporting documentation incorrectly downplays the architectural merit of the existing dwelling.
- The overall scale of the proposed dwelling is visually impactful.
- The site is highly visible and the accompanying photomontages do not accurately present this.
- The precedent examples are not directly applicable to the development proposal.
- Concerns raised with respect to the disposal of foul and water drainage.
- Concerns raised with respect to the impact of the proposed development on existing trees. It is highlighted that the Monterrey pine trees should be retained
- Concerns highlighted with respect to excavation associated with the expanded lower ground floor level.
- Concerns raised with respect to the size of the area allocated to car parking which is considered to be excessive.

4.0 Planning History

4.1. The Subject Site.

F19A/0344 (ABP-305744-19): Planning permission refused by the Planning Authority and the Board in March 2020 for the extension of the existing dwelling on site.

It is noted that the Applicant maintained Judicial Review proceedings thereof, in the High Court under Record No. 2020/436/JR. By Order of Certiorari the High Court dated 25th May 2022, the order of the Board in respect of the decision dated March 2020 was quashed with all records and entries relating thereto.

F19A/0126 (ABP-305480-19): Planning permission granted by the Planning Authority and the Board in March 2020 for development comprising:

- Demolition of the existing c.28sq.m. garage in the north-western corner of the adjacent to the front boundary with Carrickbrack Road;
- Construction of a c.48sq.m. garage in the same location as the existing garage on site;
- Alterations to the existing elevated driveway, including an increase in width in parts;
- Part demolition/alterations to the front boundary wall/fencing, driveway, entry gate and internal walls to accommodate changes to the site entrance and driveway;
- Alterations to the grass verge and footpath adjacent to the site entry;
- Improvements to the existing storm water and foul water drainage network on site; and
- Landscaping, boundary treatments and all associated works necessary to facilitate development.

F97B/0577: Planning permission granted in March 1998 for a two roomed extension to the existing dwelling on the subject site.

5.0 Policy and Context

5.1. Fingal County Development Plan, 2023-2029 (CDP)

5.1.1. The Fingal County Development Plan, 2023-2029 (CDP) came into effect on 5th April 2023, and after the decision of the Planning Authority to grant planning permission. Two zoning objectives apply to the appeal site. The northern portion of the site is within an area zoned 'RS', the objective of which is to 'Provide for residential development and to protect and improve residential amenity'. The zoning also objective applies to the lands to the east and west along this section of the southern side of Carrickbrack Road and Thormanby Road. The southern portion of the site is zoned HA, the objective of which is to 'Protect and enhance high amenity areas'. The appeal site is also located within the Howth Special Amenity Area Order and there is an objective 'To Preserve View' along Carrickbrack Road to the north and along the Howth Cliff Walk to the south. The site is also located within the Housing Density Boundary of 1 dwelling per hectare. Given the partial location of the appeal site within HA zoned lands, the following policy and objective is noted:

- Policy GINHP28 – (Protection of High Amenity Areas)
Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.
- Objective GINHO67 – (Development and High Amenity Areas)
Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.

5.1.2. Section 9.6.16 (Special Amenity Areas) of the current CDP notes that Special Amenity Area Orders are in place for Howth and the Liffey Valley. The Council recognises that Howth is a great natural asset of the Greater Dublin Area having a rich natural, built and cultural heritage. It is the policy of the Council to ensure that these areas are protected and enhanced, and that enjoyment by the public is facilitated.

- Policy GINHP27 – (Howth and Liffey Valley Amenity Orders)
Protect and enhance the special amenity value of Howth and the Liffey Valley, including its landscape, visual, recreational, ecological, geological, and built

heritage value, as a key element of the County's Green Infrastructure network and implement the provisions of the Howth and Liffey Valley Special Amenity Area Orders (SAAO).

In addition to the foregoing, Policy CSP23 (Howth SAAO) seeks to 'Protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand.'

5.1.3. Given the nature of the development proposal, the following relevant policy objectives are noted:

- Objective SPQHO39 – (New Infill Development)

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

- Objective SPQHO43 – (Contemporary and Innovative Design Solutions)
Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.
- Objective SPQHO44 – (Retention, Retrofitting and Retention of Existing Dwellings)

The Council will encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type.

- Objective DMSO166 - (Site Assessment)

A site assessment should be carried out prior to starting any design work to help inform and direct the layout, form and architectural treatment of the proposed development and identify issues that may need to be avoided, mitigated or require sensitive design and professional expertise. Features, structures or planting that add character or value to the site should be retained

and the scheme designed around these. The site assessment should evaluate:

- Character of the site and its setting.
 - Existing buildings/structures and their embodied carbon.
 - Access to the site.
 - Services.
 - Protected Designations.
 - Rare and Protected species both flora and fauna (e.g. bats, otters)
- Objective DMSO256 – (Retrofitting and Re-Use of Existing Buildings)
Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.
- Objective GINHO56 – (Visual Impact Assessments)
Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.
- Objective GINHO59 – (Development and Sensitive Areas)
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.
- Policy GINHP26 – (Preservation of Views and Prospects)
Preserve views and prospects and the amenities of places and features of natural beauty or interest including those located within and outside the County.
- Objective GINHO60 – (Protection of Views and Prospects)
Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

- Objective GINHO61 – (Landscape/Visual Assessment)
Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects.

5.2. Howth Special Amenity Area Order (SAAO) 1999

- 5.2.1. The appeal site is located within the boundary of the Howth SAAO and two designations apply to the appeal site. A 'Residential Area' applies to the northern portion of the site and 'Other Areas' apply to the southern portion of the site, as specified in Map A of the SAAO.
- 5.2.2. Further, the following features are identified for protection in the vicinity of the site (Map B of the Order):
- Footpaths to the south and east of the site,
 - Mature trees in gardens, to the north and south of the proposed dwelling,
 - A proposed natural heritage area to the south and east of cliff walk.
 - Heathland and maritime grassland, south east of cliff walk.
- 5.2.3. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area. Objective 1.1 includes to manage the area in order to conserve its natural and cultural assets and protect the amenity of local residents.
- 5.2.4. 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).
- 5.2.5. 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.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is partially located within the Howth Head SAC (Site Code: 000202) and has a direct abuttal (south) to the Rockabill to Dalkey Island SAC (Site Code: 003000). In addition, there are a number of European sites within the surrounding area, including the Howth Head Coast SPA (Site Code: 004113) located c. 600m to the site's east, the North Bull Island SPA (004006) located c. 900m to the site's south-west and the North Dublin Bay SAC (Site Code: 000206) located c. 2.1km to the site's west.

5.4. EIA Screening

- 5.4.1. The proposed development seeks planning consent for the demolition of the existing dwelling and the construction of a replacement dwelling which is positioned further north within the appeal site. I note that the proposed dwelling is to be sited within an area of the site that has been substantially cleared and currently comprises a lawn/garden area, area of hardstanding and a driveway. Having regard to the nature, scale and location of the development, which comprises the construction of a replacement dwelling on a previously developed site, 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

The application is the subject of a Third Party planning appeal by Hillwatch. The grounds of appeal are summarised as follows:

- Concerns are highlighted with respect to the scale of the proposed dwelling and the principal objection to the application is its effect on views and prospects, especially its effect on the major walk around Howth Head which is a designated public footpath in the Howth SAAO.
- It is noted that the proposed house is to be located close to the public footpath just north of the existing house. It is also highlighted that nearby houses are

located further north on their sites close to the road bordering the northern boundary of the site.

- As recommended in the policy of Howth SAAO, the Planning Authority should have requested the Applicant to erect polls corresponding to the height of the proposed structure to assist in its assessment. It is stated that the existing house was designed to minimise its impact on the surrounding environment and is currently invisible from the Cliff Walk due to its scale.
- Given that the proposed house is 3 storeys over basement, it is contended that its position, mass, and height will have a substantial negative effect on the surrounding area. It is stated that the overall objective of the Howth SAAO is to protect this wonderful high amenity for the enjoyment of the general public. The Board is therefore requested to overturn the Planning Authority's decision to grant planning permission.

6.2. Planning Authority Response

The Planning Authority confirms its decision and requests the Board to uphold the decision to grant permission.

6.3. First Party Response

A response has been prepared on behalf of the Applicant. A summary of the matters raised include:

- It is contended that that the Third Party appeal is non-compliant with the requirements of Section 127(1)(b) of the Planning and Development Act, 2000 (as amended), insofar as the mandatory details for the appellant and the representative who is acting on behalf of the appellant, have not been provided. It is confirmed that the Applicant requests a declaration of invalidity on the basis of the submissions contained within the letter (Appendix D) prepared by Brannigan Feddis LLP in respect of validity.
- It is noted that the appellant refers to the building as being three storeys over basement. However, it is confirmed that the building was modified at additional information stage through the omission of the second floor level. It is contended that the scale and design of the proposed building is consistent with the newly

emerging character and built form of this section of Carrickbrack Road.

- In terms of the Howth SAAO, it is confirmed that the proposed dwelling is located with the portion of the site that is designated as 'Residential Areas', whereby residential development is a permitted in principle land use. It is noted by the Applicant that proposed development complies with the policy of the Howth SAAO and it is noted that the protection of the special amenity value of this area has been a foremost consideration of the Applicant and the design team in progressing the proposed development. It is also contended that the appellant's interpretation of the density cap and its applicability to the subject proposal to be inaccurate and contrary to its intent, which is to protect sensitive lands within the SAAO from overdevelopment.
- In terms of 'views and prospects', the appellant's claim that the proposal will have an impact on the cliff walkway and its associated views along the Dublin coastline is refuted. It is stated that the proposal will not have a negative impact on protected views along Carrickbrack Road to the north nor from the Howth Cliff Walk to the south. It is stated that the dwelling is located c. 17.5m further north within the site, outside the HA (High Amenity) zoned lands and c. 65m north of the Cliff Walk.
- In terms of the impact on the existing streetscape, it is noted that the dwelling will not be visible from Carrickbrack Road given the setback of the dwelling and the topography of the site. In terms of views from the Howth Cliff Walk, it is contended that views along the Cliff Walk are generally focused towards the sea and the proposed dwelling will not be visible from the Cliff Walk to the immediate south of the site. In support of the appeal response, the Applicant has submitted a series of revised comparative photomontages (Appendix C) of the proposed development. A revised section diagram (Drawing No. APL-201) has been enclosed to illustrate the relationship between the proposed dwelling and the Cliff Walk and it is contended that extensive views of the dwelling by walkers of the pathway will not be available due to the topography of the site and the existing vegetation cover within the southern portion of the site.

6.4. Observations

None.

6.5. Further Third Party Response

A Third Party response to the First Party response has been prepared and submitted on behalf of Hillwatch. The matters raised in the Third Party response are detailed as follows:

Validity of Appeal

- It is stated that the Applicant makes the incorrect claim that the appeal is invalid as it breaches Section 127(1)(b) of the Planning and Development Act, 2000 (as amended). It is highlighted that the appeal is not made by Ms Ni Laoi in either a personal or representative capacity and it is clear that Hillwatch is the appellant and Ms Ni Laoi has simply signed the letter as the member authorised to do so. It is stated that there is no requirement for an appellant to have someone act on their behalf, but if they do engage such a person, that person must also provide their name and address. Other complaints about the validity of the appeal include:
 - o That there is a requirement to provide information in respect of the legal status of legal identity of the appellant;
 - o The appellant has no “locus standi” because it is alleged that it cannot be identified; and,
 - o The appeal is frivolous and vexatious and made for the purposes of delay in the circumstance where the appellant did not make an observation at further information stage.

It is stated that none of these objections are required in legislation and therefore do not give rise to invalidity.

Observations on the Response

- In terms of the status of the Howth SAAO, it is stated that its salient feature is that it is a legislative form of planning control which take primacy over the development plan. In particular, the Board has no discretion in relation to the material contravention of the SAAO under section 37(2) or otherwise.

Therefore, if the proposed development is contrary to the SAAO (as is contended in the case here), the Board is required to refuse permission.

- In terms of the reduction in height of the development at FI stage, it is stated that this does not alter the appellant's concern in relation to the height and size of the proposed development and its impact on the views and amenity which are protected by the SAAO and the minor reduction in height continues to breach the SAAO. Reference is made to a previously quashed decision (ABP-305744-19), where concerns were raised with respect to the negative impact of the development (residential extension) on views from the Cliff Walk and from the coastal area. It is contended that the current proposal is in fact worse than the previously refused application given its overall height and location. It is stated that the proposed dwelling is broadly in the same location relative to the cliff walk as was previously proposed and the roof ridge is considerably higher now with the higher parts closer to the cliff walk compared to the previously proposed extension. It is therefore contended that the proposal must be refused for the same reason as before as it is contrary to Objectives 3.2, 3.3 and 3.4 of the SAAO.
- In terms of compliance with the Howth SAAO, it is stated that there is a portion of the building, a terrace, attenuation tank and the wastewater treatment unit which are proposed within and beyond the footprint of the existing house within the HA zoned area. It is contended that the proposed development does not comply with the SAAO criteria for residential development on any reading:
 - o Firstly, the proposed development is twice the density limit in the SAAO since it proposes a development at a density of 2 dwelling units per ha. It is stated that the developers are incorrect to calculate density by reference essentially to the gross site area. It is stated that the Applicant has incorrectly attempted to cannibalise the HA portion of the site to impermissibly exceed the density limitation in the SAAO.
 - o Insofar as the proposed development may be considered a replacement dwelling, then it also does not comply with the SAAO since it is significantly more than 20% larger than the existing dwelling on site.

It is stated that these limitations set out in Schedule 3 of the SAAO are hard

numerical limits leaving no room for interpretation or discretion. The proposed development is in excess of these limits and therefore, the Board is required to refuse permission.

- It is contended that the Planning Authority's decision was flawed for numerous reasons. A summary of the reasons is included as follows:
 - The planning application is invalid as the Applicant failed to comply with requirements of Regulation 22(2)(i) and (ii) of the Planning and Development Regulations, 2001 (as amended) (Planning Regulations) to indicate to which the application relates with a red line and land adjoining the land to be developed under the control of the Applicant or landowner in blue. It is stated that the red line boundary includes the cliff walk, the cliffs and the shore and it seems therefore that the red line has been drawn too broadly and for a purpose that is not specified in the Planning Regulations. It is suggested that this may have been done in an attempt to show the development density of less than one unit per ha.
 - The Planning Authority failed to comply with its obligation under Regulation 28(1)(a) of the Planning Regulations and its failure to carry out this obligation renders the decision invalid.
 - It appears that the Planning Authority failed to take into account that the demolition of the existing dwelling on the site would in itself breach the SAAO, in particular Objective 3.4 which requires the preservation of the beauty and distinctive character of the natural, semi-natural and other areas within the special amenity area. It is stated that the documents on file demonstrate that the dwelling forms part of this distinctive character and its demolition would have an adverse impact of itself.
 - It is contended that the Planning Authority's pro-form EIA decision is unlawful and inconsistent with the decision as a whole. The Planning Authority seemingly dispensed with the need for an EIA Screening because of the size and scale of the proposed development alone. It is stated that this is contrary to EU Law which requires the nature, size and location of the development to be taken into account by reference to the criteria in Annex III to the Directive. It is also contended that the Planning

Authority should have served notice under Regulation 103(1)(b)(ii) of the Planning Regulations but failed to do so.

6.6. Further Planning Authority Response

No further comment.

6.7. Further Responses

None.

7.0 Assessment

The main issues are those raised in the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development, Built Heritage & Demolition
- Design, Visual Impact & Protected Views
- Wastewater Treatment
- Procedural Matters
- Appropriate Assessment

7.1. Principle of Development, Built Heritage & Demolition

- 7.1.1. I note that the appeal site is subject to two zoning objectives under the Fingal County Development Plan (CDP), 2023-2029. The southern portion of the site, within which the existing dwelling is located, is subject to zoning objective 'HA' (High Amenity) the objective of which is to 'Protect and enhance high amenity areas'. The remainder of the appeal site (i.e. northern portion) is zoned 'RS', the objective of which is 'provide for residential development and to protect and improve residential amenity'. This zoning objective also applies to the lands further to the west and east of the site along the southern side of Carrickbrack Road and Thormanby Road respectively. Residential development is identified as a permitted in principle use on lands zoned 'RS'. The proposal seeks planning consent for the demolition of the existing dwelling and the construction of a new two storey over lower ground floor level replacement

dwelling. The footprint of the dwelling is proposed to be shifted further to the north, with the majority of the dwelling being located within lands zoned 'RS'. From a review of the submitted plans and the applicable zoning map of the current CDP, it would appear that a small portion of the dwelling remains within the 'HA' zoning, where a residential use is also permitted in principle, subject to compliance with the Rural Settlement Strategy of the CDP. Section 12.4 (Replacement Dwellings – Rural) of the Plan is therefore relevant to the consideration of this proposal which states that where replacement is accepted, the applicant shall clearly demonstrate as part of an application for demolition and replacement:

- The impact of the replacement structure on surrounding landscape and/or properties in the vicinity of the site, resulting from the design, location, layout, and size of the proposed dwelling.
- The appropriateness of demolition of the existing structure having regard to its existing setting, age, design, and overall contribution to the area.

7.1.2. Further to the above, I note that it is a specific objective of the current CDP (Objective SPQHO44) for the Planning Authority to '...encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type'. Section 14.21.1 (Re-use of existing Buildings) of the CDP is also relevant, whereby applicants are encouraged to reuse and repurpose buildings and where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the "embodied carbon" of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. In addition, Section 14.19.1.2 (Existing Buildings/Structures) of the Plan notes that where structures exist on a site their embodied carbon needs to form part of the considerations for any redevelopment to ensure the proposal adheres to sustainable development goals. Adaptive re-use and transformation of existing buildings should be the first consideration before demolition and replacement'. As noted in the

foregoing, the proposal seeks to demolish the existing dwelling on the appeal site and construct a larger, more energy efficient dwelling of a contemporary architectural form. The report of the Planning Authority's Conservation Officer has provided a detailed overview of the site's history which confirms that the house and driveway was designed by renowned Irish architect Andrew (Andy) Devane who is described by the Conservation Officer as one of the leading modernist architects in Ireland. Within their assessment of the application, the Conservation Officer contended that there is enough architectural interest still apparent within the extent of the original scheme for it to be of value to Fingal's architectural heritage and of value in understanding and appreciating the entire body of work of such an important architect. It was therefore recommended within the Conservation Officer's report that the dwelling be retained and partially demolished (i.e. more recent side extensions) and the proposal modified to facilitate its retention. Notwithstanding this, the Planner's Report on file acknowledges that the existing dwelling is not a Protected Structure nor is it located within an Architectural Conservation Area (ACA). Taking this into consideration, along with the current poor state of building, its demolition and replacement was deemed to be acceptable.

- 7.1.3. In support of the application, the Applicant has submitted a Conservation Report & Architectural Assessment of the existing dwelling. The report provides a detailed description of the dwelling and its historic background and notes that the architect's work (Andy Devane) is characterised by a careful balance of aesthetic handling of materials, balancing sculpture of form with an understated but precise use of modern materials. However, it is stated that the execution of the subject dwelling is by comparison crudely realised and the attention of the original design has been further adulterated by the addition of the two extensions giving the entry elevation an elongated and excessively austere impression. It is also stated that the lean-to sunroom to the rear is out of keeping with the remainder of the dwelling. It is highlighted that the building has been poorly maintained and would require significant intervention to bring it to any acceptable level of compliance with reasonable standards and the implication of such would likely further undermine whatever original intention the first design sought to achieve in terms of the bareness and sparse use of materials. It was

therefore concluded that its demolition and replacement was deemed to be acceptable. A justification has also been included within the Architect's Design Statement for the building's demolition and replacement.

7.1.4. In addition to the foregoing, the Applicant has submitted a Structural Inspection Report and an Energy Report for the existing and proposed dwellings. The submitted Structural Inspection Report provides an internal and external photographic survey of the building and a detailed description of the existing condition of the dwelling as a whole. A summary of the conclusions of this study are provided as follows:

- Externally

- The roof, eaves and parapet structure have deteriorated over time with cracking and spalling to approximately 50% of the eaves parapet detailing. It is stated that the cracked and spalling concrete would appear to have caused water ingress in locations such as the utility room and kitchen.
- The window sills to the kitchen and main bedroom are no longer intact with the reinforcement within the sills corroding, expanding and causing the front of the sills to break away. The window sills to the bay windows and sunrooms are in a precarious state.
- Water ingress into the roof slab over the carport, which suggests that the waterproof liner has broken down. It is stated that this will in turn cause corrosion of the reinforcement in this section of the slab.
- Cracking evidence in the spiral stairwell which supports the carport roof slab.

- Internally

- Evidence of movement with gaps opening up between the top of the internal block walls in the living room and the main bedroom ensuite.
- The sunroom structure is in a very poor condition.
- Water staining is apparent to the top of the external walls of the utility room the back wall of the kitchen.
- There is no evidence of insulation in the cavity at the point of inspection within the kitchen.

The report concludes that with the exception of the external walls, it is evident that extensive demolition and rebuilding work to all elements of the property is required. Further to this, the submitted Energy Report confirms that the existing building has an energy BER rating of D1. The report confirms that the results of the assessment demonstrate that the proposed building will meet and exceed the required A2 BER rating. It is stated within the report that the client has directed that a balance must be achieved between the greater energy efficiency ratios of the new build, its size for running costs/impacts, and resources used for its construction and those of the existing dwelling and the embodied energy lost in its demolition. The report includes an embodied CO2 investigation and using the BER data of both the old and the new dwellings, it is stated that it was possible to establish the CO2 production of the existing and proposed dwelling per year. The report reviews the design of the new build to establish the embodied CO2 of the materials used in the construction and with this information, they were able to review the 30 year carbon dioxide impact of the new building in comparison to the existing dwelling. It is stated within the report that the new building creates a large improvement in the energy efficiency of the pre-existing dwelling and the new build manages to be CO2 positive after 14 years. Although it is acknowledged within the report that there is an immediate impact from demolition and building materials, it is stated that the increase in energy efficiencies mitigates them in a very short time in comparison to the reasonable usage period of the dwelling. Further to this, the Applicant has submitted a 'Suitability Assessment Report – Demolition of Existing Building' which sets out a rationale for the demolition of the existing building. In consideration of the cost (life cycle cost) and environmental viewpoint, it is argued that the investment in the construction of the new purpose-built building with a sustainable design and construction would provide a more sustainable building and living environment into the future.

- 7.1.5. In addition to the commentary of the Planning Authority's Conservation Officer, concerns were raised by observers to the application and by the appellant with respect to the demolition of the existing building and the loss of the existing architectural fabric. It was also contended within the appellant's response that the demolition of the dwelling would be contrary Objective 3.4 of the Howth SAAO as the dwelling forms

part of the area's distinctive character and its demolition would have an impact of itself. Having inspected the appeal site and surrounds, I observed the building to be in a poor state of repair which correlates with the applicant's documentation. Although I acknowledge and accept that the original dwelling has some architectural merit, the building itself has been altered overtime and I note that it is not visible from Carrickbrack Road, within only glimpses of the dwelling available along the Howth Cliff Walk. Therefore, I do not share the concerns that its demolition would detract from or have a negative impact on the areas distinctive character. Having regard to the existing structural condition of the building, the extent of alterations already carried out to the dwelling and the rationale for its demolition in the context of the "embodied carbon" of existing structures and the energy efficiency of the proposed dwelling, I am satisfied that the principle of its demolition and replacement is acceptable in this instance. Notwithstanding the commentary of the Planning Authority's Conservation Officer, I also note that the building is not listed as a Protected Structure in the recently adopted CDP nor is it located within an ACA. In this regard, I consider the proposal to be in accordance with the zoning provisions that apply to the appeal site and the pertinent policy of the Plan which I have outlined above. However, I am conscious of the sensitivity of the site's sensitive landscape and that of the surrounding area and any replacement dwelling must appropriately respond to the characteristics of the site and surrounds, having regard to its design, location, layout and size. The following section of this report will discuss matter in further detail.

- 7.1.6. Further to the above, the appellant contends that the proposal fails to accord with the policy of the Howth SAAO insofar as it exceeds the maximum permitted density that applies to the lands (i.e. 1 unit per ha. as per Map A of the Howth SAAO and the applicable zoning map of current CDP). Further to this, insofar as the proposed development may be considered a replacement dwelling, it is stated that the proposal fails to comply with the SAAO since it is significantly more than 20% larger than the existing dwelling on site. As the proposal seeks to replace the existing dwelling, I concur with the commentary of the Planning Authority that the density on the appeal site is not being increased as part of the proposed development. In addition, the 20% limitation for replacement dwellings relates to lands that are identified as 'Other Areas'

as specified in Schedule 3: Part 2 of the SAAO. As the proposed dwelling is being sited further to the north with land identified as 'residential areas' and only a minor element of the dwelling appears to be proposed within this portion of the site, I am satisfied that the proposal does not represent a breach in the requirements of the SAAO.

7.2. Design, Visual Amenity & Protected Views

- 7.2.1. As noted in the foregoing, the proposal (as permitted by the Planning Authority) seeks planning consent to demolish the existing dwelling on the appeal site and to construct a new detached, two storey over lower ground floor level dwelling. The proposed dwelling has a contemporary architectural design with a pitched form which incorporates a varied palette of materials and finishes. Following concerns raised by the Planning Authority at additional information stage, the upper floor level of the dwelling was omitted, and a more restricted palette of materials was adopted. The size of the southern terrace was also reduced, and the lower ground floor level was extended and reconfigured. Significant concerns have been raised by the appellant with respect to the scale, siting and form of the dwelling and the impact of the proposal on Protected Views and it was considered that the proposal would detract from the overall character of the Howth SAAO. Within their assessment of the planning application, the Planning Authority welcomed the siting of the dwelling further northwards within the site and noted that the design of the dwelling was broadly consistent with the newly emerging character along this section of Carrickbrack Road. Whilst I acknowledge that the dwelling is significantly larger than the existing building, I note the overall size of the appeal site and the pattern of development in the surrounding area, where examples of dwellings of a similar architectural style and form are evident. I am therefore satisfied that a dwelling of this size can be accommodated on the appeal site subject to a carefully considered architectural response.
- 7.2.2. As per Map B of the Howth SAAO and the relevant zoning map of the current CDP, there is an objective to preserve views along Carrickbrack Road and Thormanby Road to the north of the appeal site and along the Howth Cliff Walk, which runs along the southern site boundary and further to the south-west and south-east of the site. Given the topography of the appeal site, there is a significant level difference across the site

with the roof ridge of the proposed dwelling (as modified at additional information stage) positioned c. 10.3m below the road level on Carrickbrack Road. This level difference combined with the extensive tree coverage within the northern portion of the site, ensures that the proposed dwelling will not be clearly visible from the north where these protected views are located. In support of the application and appeal, the applicant has submitted a series of existing and proposed photomontages which are taken from various vantage points along the walkway to demonstrate that the building will not be clearly visible. A section diagram (Drawing No. APL-201) has also been submitted with the appeal to demonstrate that the dwelling will not be visible from the walkway to the immediate south of the site. As per Section 9.6.15 (Views and Prospects) of the current CDP, the Plan notes that in assessing views and prospects it is not proposed that this should give rise to the prohibition of development along these routes, but development, where permitted, should not hinder or obstruct these views and prospects and should be designed and located to minimise their impact. When inspecting the appeal site and surrounds, it is evident that the area has an established residential character with dwellings being clearly visible from various vantage points along the cliff walk. I note that there are examples of both historic buildings of heritage value and more recently constructed contemporary style dwellings which make a valuable contribution to the area's character where built form integrated into this high value landscape coexist. Although glimpses of the dwelling may be visible further to the south-east along the walkway, I am satisfied that the dwelling has been designed to a high standard and utilises a well-considered and restricted palette of materials. It is my view that the proposed development does not impinge in any significant way on the character, integrity and distinctiveness of this highly sensitive area and does not detract from its scenic value. For this reason, I deem the proposed development to be acceptable and I am satisfied that the proposal is responsive to and consistent with the established and emerging pattern of development in the surrounding area.

7.3. Wastewater Treatment

7.3.1. Assessment of the wastewater treatment element of a house in an un-serviced area

is a standard consideration. Given the proposals reliance on an on-site wastewater treatment system, Objective DMSO200 is relevant to the consideration of the appeal which states that the EPA's Code of Practice for Domestic Wastewater Treatment Systems Domestic effluent treatment plants and percolation areas serving rural houses or extensions shall comply with the requirements of the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent < 10), 2021, or as amended. It is also stated that the area required to install a domestic wastewater treatment plant and percolation area is subject to the separation distance requirements for the EPA code of practice being achieved and adequate space for SuDS being provided. At additional information stage, the proposal was modified so that the location of the proposed wastewater treatment system and percolation area was identified on the proposed Site Layout Plan. A report is on file from the Planning Authority's Water Services Section indicating that they have no objection to the proposed development.

7.3.2. In support of the application, the Applicant has submitted a site characterisation report which notes that the site is in an area with a poor aquifer of extreme vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 0.9m deep trial hole with bedrock encountered at the depth of 0.9m. The soil was silt/clay in the upper 300mm and clay intermixed with stone between 0.3ma and 0.69m below ground level. I note that the Site Characterisation Form identifies a Groundwater Response of R2¹ which as per Table E1 of the EPA Code of Practice, is identified as being 'acceptable subject to normal good practice and the following additional condition:

- There is a minimum thickness of 2m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system OR,
- A secondary treatment system as described in Chapters 8 and 9 is installed, with a minimum thickness of 0.3 m unsaturated soil/subsoil with percolation values from 3 to 75 (in addition to the polishing filter, which should be a minimum depth of 0.9 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter).

7.3.3. The T test (subsurface) result was 15.5 min/25mm. A P test (surface) was also carried out giving a result of 11.48 min/25mm. Both of which are identified within the Site Characterisation form as 'good percolation characteristics of the subsoil material'. I consider the results to be generally consistent with the ground conditions observed on site. The proposed wastewater treatment system is to be located within a relatively flat area of the site with the lands further to the south sloping in a southerly direction towards the rear site boundary. I note that the proposal complies with the minimum separation distances as outlined in Section 6.3 of the EPA Code of Practice. Section 3.1 of the Site Characterisation Form states the ground condition was dry and firm at the time of inspection. This portion of the site comprises overgrown grass, which was firm underfoot and had no indication of, for example, water ponding, outcrops etc. Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form states that the site is suitable for development including a secondary treatment system and tertiary treatment system, all of which are discharging to ground water. Section 5.0 (Recommendation) of the Site Characterisation Form recommends that a tertiary treatment system be installed on site and it is proposed that a purpose built sand polishing filter and gravel layer should be constructed on site to ensure that there is a minimum of 0.9m of suitable percolating material between the base of the lowest part of the gravel base at all times. Photographic examples of similar sand filters have been identified within the Site Characterisation Form and a plan and cross section view of the sand filter is also included.

7.3.4. Having regard to the information on file and having inspected the appeal site, I am generally satisfied that the Applicant's proposals for the disposal and treatment of wastewater for the proposed dwelling are generally acceptable in this instance. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).

7.4. Procedural Matters

7.4.1. As outlined in Section 6 of this report, the Applicant in their response to the appeal has

put forward an argument that the Third Party appeal is non-compliant with the requirements of the Section 127(1)(b) of the Planning and Development Act, 2000 (as amended), insofar as the mandatory details for the appellant and the representative who is acting on behalf of the appellant, have not been provided. In response to the Applicant's claims, the submission on behalf of the appellant highlighted that the appeal is not made by Ms Ni Laoí in either a personal or representative capacity and it is clear that Hillwatch is the appellant and Ms Ni Laoí has simply signed the letter as the member authorised to do so. It is stated that there is no requirement for an appellant to have someone act on their behalf, but if they do engage such a person, that person must also provide their name and address. Given it is confirmed that Ms Ni Laoí is not acting on the Appellant's behalf, this is deemed acceptable.

7.4.2. Within the Appellant's submission to the Applicant's response, it is contended that the Planning Authority's decision was flawed for numerous reasons. Firstly, it is stated that the planning application is invalid as the Applicant failed to comply with the requirements of Regulation 22(2)(i) and (ii) of the Planning Regulations to indicate to which the application relates with a red line and the land adjoining the site under the control of the applicant or landowner in blue. I note that it is not evident from the information on file that there is any land that adjoins, abuts or is adjacent to the site which is under the control of the Applicant which would be required to be outlined in blue. In this regard, I am satisfied that the Planning Authority has met their obligations in terms of the relevant requirements of the Planning Regulations.

7.4.3. The appellant's submission has indicated that the Planning Authority failed to comply with its obligation under Regulation 28(1)(a) of the Planning Regulations given the location of the appeal site within the Howth SAAO. It is purported that the Planning Authority's failure to carry out this obligation renders the decision invalid. I note that Section 28(1)(a) of the Regulations reads as follows:

- where it appears to the authority that the land or structure is situated in an area of special amenity, whether or not an order in respect of that area has been confirmed under section 203 (or deemed to be so confirmed under section 268(1)(c)) of the Act, or that the development or retention of the structure might

obstruct any view or prospect of special amenity value or special interest — to An Chomhairle Ealaíon, Fáilte Ireland, and An Taisce — the National Trust for Ireland,

Whilst it is unclear from the information on the planning file whether the Planning Authority executed this particular function, I note the relevant bodies were notified at planning appeal stage and were therefore informed and afforded an opportunity to make an observation on the proposed development.

7.4.4. Further to the above, it is contended within the appellant’s submission that the Planning Authority’s pro-form EIA decision is unlawful and inconsistent with the decision as a whole. In this regard, I refer to Section 5.4 of this report, whereby it is considered that the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required in this particular instance.

7.5. Appropriate Assessment

7.5.1. I note that the appeal site is partially located within the Howth Head SAC (Site Code: 000202) and has a direct abuttal (south) to the Rockabill to Dalkey Island SAC (Site Code: 003000). In addition, there are a number of European sites within the surrounding area, including the Howth Head Coast SPA (Site Code: 004113) located c. 600m to the site’s east, the North Bull Island SPA (004006) located c. 900m to the site’s south-west and the North Dublin Bay SAC (Site Code: 000206) located c. 2.1km to the site’s west.

7.5.2. The qualifying interests and conservation objectives of the relevant sites are included as follows:

European Site	Qualifying Interest	Conservation Objectives
Howth Head SAC (000202)	Vegetated sea cliffs of the Atlantic and Baltic coasts (1230)	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts in Howth Head SAC.
	European dry heaths (4030)	To maintain the favourable conservation condition of European dry heaths in Howth Head SAC.

Howth Head Coast SPA (004113)	Kittiwake <i>Rissa tridactyla</i> (A188)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Rockabill to Dalkey Island SAC (003000)	Reefs (1170)	To maintain the favourable conservation condition of Reefs in Rockabill to Dalkey Island SAC.
	Harbour porpoise <i>Phocoena phocoena</i> (1351)	To maintain the favourable conservation condition of Harbour porpoise in Rockabill to Dalkey Island SAC
North Bull Island SPA (004006)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]	To maintain the favourable conservation condition of Light-bellied Brent Goose in North Bull Island SPA.
	Shelduck (<i>Tadorna tadorna</i>) [A048]	To maintain the favourable conservation condition of Shelduck in North Bull Island SPA
	Teal (<i>Anas crecca</i>) [A052]	To maintain the favourable conservation condition of Teal in North Bull Island SPA.
	Pintail (<i>Anas acuta</i>) [A054]	To maintain the favourable conservation condition of Pintail in North Bull Island SPA
	Shoveler (<i>Anas clypeata</i>) [A056]	To maintain the favourable conservation condition of Shoveler in North Bull Island SPA
	Oystercatcher (<i>Haematopus ostralegus</i>) [A130]	To maintain the favourable conservation condition of Oystercatcher in North Bull Island SPA
	Golden Plover (<i>Pluvialis apricaria</i>) [A140]	To maintain the favourable conservation condition of Golden Plover in North Bull Island SPA
	Grey Plover (<i>Pluvialis squatarola</i>) [A141]	To maintain the favourable conservation condition of Grey

		Plover in North Bull Island SPA.
	Knot (<i>Calidris canutus</i>) [A143]	To maintain the favourable conservation condition of Knot in North Bull Island SPA.
	Sanderling (<i>Calidris alba</i>) [A144]	To maintain the favourable conservation condition of Sanderling in North Bull Island SPA.
	Dunlin (<i>Calidris alpina</i>) [A149]	To maintain the favourable conservation condition of Dunlin in North Bull Island SPA.
	Black-tailed Godwit (<i>Limosa limosa</i>) [A156]	To maintain the favourable conservation condition of Black-tailed Godwit in North Bull Island SPA.
	Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]	To maintain the favourable conservation condition of Bar-tailed Godwit in North Bull Island SPA.
	Curlew (<i>Numenius arquata</i>) [A160]	To maintain the favourable conservation condition of Curlew in North Bull Island SPA.
	Redshank (<i>Tringa totanus</i>) [A162]	To maintain the favourable conservation condition of Redshank in North Bull Island SPA.
	Turnstone (<i>Arenaria interpres</i>) [A169]	To maintain the favourable conservation condition of Turnstone in North Bull Island SPA.
	Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]	To maintain the favourable conservation condition of Black-headed Gull in North Bull Island SPA.
	Wetland and Waterbirds [A999]	To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring

		migratory waterbirds that utilise it.
North Dublin Bay SAC (000206)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	<p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Annual vegetation of drift lines in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in North Dublin Bay SAC.</p> <p>To maintain the favourable conservation condition of Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) in North Dublin Bay SAC.</p> <p>To maintain the favourable conservation condition of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Embryonic shifting dunes in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') in North Dublin Bay SAC.</p> <p>To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes') in North Dublin Bay SAC.</p>

	Humid dune slacks [2190] Petalophyllum ralfsii	To restore the favourable conservation condition of Humid dune slacks in North Dublin Bay SAC.
	(Petalwort) [1395]	To maintain the favourable conservation condition of Petalwort in North Dublin Bay SAC.

7.5.3. In support of the application, the Applicant has submitted an AA Screening Report with the application which confirms that the proposed development is neither directly connected to nor necessary to the management of the Natura 2000 sites. It is noted that that southern portion of the appeal site is located within the Howth Head SAC. Notwithstanding this, I note that there are no works proposed within this portion of site, with the proposed dwelling being sited further northwards away from the protected site. Within the Screening Report, the potential for direct, indirect or secondary impacts upon any of the Natura 2000 sites within the vicinity of the site are assessed. In summary, the report found that the proposed development will not have adverse effects on the Natura 20000 sites in the vicinity of the proposed development and it was deemed that a Stage Appropriate Assessment was not necessary.

7.5.4. Taking into consideration the modest nature, extent and scope of the proposed development, the nature of the receiving environment, and based on best scientific information, including the submitted Site Characterisation Report, that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on the Howth Head SAC (Site Code: 000202), the Rockabill to Dalkey Island SAC (Site Code: 003000) or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment and submission of a NIS is therefore not required in this instance.

8.0 Recommendation

8.1.1. Grant of permission is recommended.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Fingal Development Plan 2023-2029, including the 'RS' and 'HA' zoning objectives that apply to the site, the scale, form and design of the proposed dwelling, the specific characteristics of the site, including its topography and vegetation cover and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be detrimental to the character or amenities of the Howth Special Amenity Area, 1999 and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall comply with the plans and particulars lodged with the application submitted and the additional information received on 5th September 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The entire premises be used as a single dwelling unit apart from such use as maybe exempted development for the purposes of the Planning and Development Regulations.</p> <p>Reason: In the interest of clarity and to ensure proper planning and sustainable development.</p>
3.	<p>Prior to the commencement of any development, the developer shall undertake a comprehensive Analytical Record of The End. A copy shall be</p>

	<p>lodged with the Conservation Office of Fingal County Council and with the Irish Architectural Archive. The recording of the building shall adhere to Recording Level 4 as set out in the Historic England publication 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016). The Comprehensive Analytical Record shall be an independent document that is a full written and visual record of the building. The written record shall include an analysis of all the documents and drawings related to the building within the Robinson Keeffe Devane archive. The visual record shall consist of measured survey drawings of the plans, sections and elevations along with a detailed photographic survey of the exterior and all internal spaces. Photographs shall include images of any surviving internal or external features specifically noted on Devane's original drawings. The record shall include an evaluation of the context and the contribution of The End to Devane's body of work and 20th century Irish architecture in general. The input of a specialist in 20th century Irish architecture who have written in this area maybe required.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
4.	<p>Finishes shall be as set out in the plans submitted on 5th September 2022, unless otherwise agreed in writing with the Planning Authority prior to the commencement of the development. Anti-glare glazing shall be used.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The proposed angular pop up within the central roof profile serving the void area at first floor level shall be omitted. The Windows serving bathroom, W.C.'s, en-suites etc and as otherwise indicated, including within the western elevation serving bedroom no. 2 shall be fitted and permanently maintained with obscure glass, use of film is not acceptable.</p> <p>Reason: In the interest residential amenity and the proper planning and sustainable development of the area.</p>
6.	<p>Prior to commencement of development, the Applicant shall enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be</p>

	<p>carried out in compliance with the Irish Water Standards codes and practices.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Prior to the commencement of the development, the developer shall submit for the written agreement of the Planning Authority a site-specific final Construction and Environmental Management Plan.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
9.	<p>The Applicant shall comply with the recommendations of the submitted Tree Report and Arboricultural Method Statement. A tree bond of €40,000 is to be lodged with the Council prior to the commencement of development and is to be held by Fingal County Council for a period of 3 years post construction which may be extended in the event of possible construction related defects. Upon substantial completion of construction works the submitted Landscape Plan shall be implemented within the first planting season. Any failures shall be replaced until such time that the plantings become established. The refunding of the tree bond will be dependent on the planting of proposed trees as shown.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
10.	<p>The Applicant shall ensure that:</p> <ol style="list-style-type: none"> a. All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.

	<p>b. The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.</p> <p>Reason: To protect the amenities of the area.</p>
11.	<p>The Applicant shall ensure that the design and installation of the proposed WWTS complies with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021).</p>
12.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 8am to 7pm Mondays to Fridays inclusive, between 9am to 2pm hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
14.	<p>The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application</p>

<p>of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Enda Duignan
Planning Inspector

27/06/2023