



An
Bord
Pleanála

Inspector's Report

ABP-316113-23

Development

Protected Structures (Ref: 0556 and 0557): change of use of from residential use to hospitality and tourist retail use. Demolition of some farm buildings. New access road, car parking and upgrade of existing access. NIS submitted with application. Additional information received 21/12/2022.

Location

Howth Castle, Howth Road, Howth, Co. Dublin, D13 EH73

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F22A/0046

Applicant(s)

WSHI Ltd. & The Michael J. Wright Group.

Type of Application

Planning Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

First Party

Appellant(s)	WSHI Ltd. & The Michael J. Wright Group.
Observer(s)	Offington Resident's Association Select Vestry of the Parish of Howth Cllr. David Healy Evora Park Residents Association Howth Sutton Community Council Grace O'Malley Residents Association Brendan & Siobhán Clifford
Date of Site Inspection	17 th of May 2024.
Inspector	Elaine Sullivan

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	12
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	20
6.3. Observations	22
6.4. Further Responses.....	24
7.0 Assessment.....	26
8.0 Recommendation.....	47
9.0 Reasons and Considerations.....	47

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 6.98 hectares and is located at Howth Castle on the northern side of Howth Head. It is located to the west of Howth village and on the southern side of Howth Road. Directly to the north of the entrance to the site, a large housing development is under construction.
- 1.2. The application area encompasses the northern portion of Howth Castle lands, including the main entrance gates, the Castle and all surrounding outbuildings. The existing access road from Howth Road also provides access to the Deer Park Golf Course and Hotel which is located to the south of the Castle. Plans to redevelopment the Deer Park Hotel have been approved by Fingal County Council under PA Ref. F22A/0372 which is currently on appeal to the Board under ABP-317883-23.
- 1.3. Howth Castle is listed on the Record of Protected Structures (RPS Ref. 556) and is centrally positioned in a complex of buildings within the estate which have been designated as an Architectural Conservation Area (ACA).

2.0 Proposed Development

- 2.1. Planning permission is sought to refurbish, redevelop, conserve and change the use of part of the existing Howth Castle buildings, Stable Block and attendant lands. The development proposal includes the demolition of some farm buildings, the refurbishment and construction of new buildings and a change of use of part of the lower and upper ground floors of the castle and adjoining stable block and stable yard from primarily residential use to hospitality and retail use.
- 2.2. The upper ground floor of the main castle area would be converted to tea rooms and reception area, and the rooms at lower ground floor level would be converted to rest rooms, kitchens and storage areas.
- 2.3. Changes to the Castle Stable area would include a change of use of ground floor stables to artisan retail and café use with the construction of new rest rooms, a new covered pavilion for restaurant use with new kitchen area and renovation of original entrance through the clock tower.

- 2.4. The entrance to the Demense lands would be reconfigured to create a new access road to the proposed new car parking area and overflow car park to the northwest of the main castle building. Additional works to this area would include a plant nursery, playground, picnic area and a temporary marquee for wedding events.
- 2.5. It is also proposed to reopen and extend the existing historical cul-de-sac road past St. Mary's Church and to create a new access road to the golf buildings at Deer Park which bypasses the front of the castle and links back to the existing road.
- 2.6. A new pedestrian entrance would be provided from Howth Road to the castle complex.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by the Planning Authority (PA) subject to 18 no. planning conditions.

Planning conditions 2, 3, 9(i) and (ii), 10 and 18 are the subject of this appeal and relate to the following –

- Condition No. 2 requires that the proposed road to the east of the castle is omitted.
- Condition No. 3 limits the car parking provision to a limit of 151 spaces and requires the omission of the overflow car park.
- Condition No. 9(i) and (ii) require that the pedestrian route from Howth Road is widened to 3m to include a cycle lane.
- Condition No. 10 requires the relocation of the temporary wedding marquee further to the east to be outside of the root protection zone of the existing trees.
- Condition No. 18 relates to development contributions, which the applicant argues have been applied incorrectly.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the PA was informed by two reports of the Planning Officer (PO). The first report was dated the 25th of March 2022. This report recommended that a request for further information (RFI) was issued on 16 points. The RFI included points which related to the location and design of the temporary wedding marquee, the requirement for the new vehicular road and its impact on the landscape and the quantum of parking proposed.

The second report is dated the 23rd of February 2023 assessed the response to the RFI. The PO was generally satisfied that the applicant had addressed the issues raised. However, the PO did not consider that the temporary marquee had been moved far enough away from the existing trees and did not accept the arguments put forward by the applicant to support the provision of a new road through the Demense lands. The PO did not consider that the justification for the quantum of parking provided was in accordance with the Development Plan and recommended that planning conditions be attached to address these issues.

3.2.2. Other Technical Reports

- Conservation Officer (CO) – The report of the 16th of March 2022 recommended that further information was requested. The CO sought the omission of a number of elements, including the proposed road to the east of the castle; clarification of eight elements of the development and revised design of five elements including the wedding marquee.
- Transportation Planning Section – The report dated the 15th of March 2022 requested further information on 9 points which included, justification for the requirement of the new road to the east and the level of car parking proposed.
- Parks and Green Infrastructure Division – The report dated the 11th of March 2022 raised concerns regarding the level of intervention to the landscape and the number of trees proposed for removal, including Category 1 and 2 trees. Further information was requested regarding five elements / points which

included the omission of the proposed road to the east of the castle and changes to the location of the wedding marquee to protect trees.

- Heritage Officer – Archaeology – The proposed approach to archaeology on the site is supported and conditions are recommended to monitor development.
- Environmental Health – Air & Noise Unit – No objection.
- Water Services – No objection.

3.3. Prescribed Bodies

Uisce Éireann – No objection.

3.4. Third Party Observations

A large number of submissions were received by the PA during the public consultation phase. The submissions included some general support for the development but also raised concerns about the following issues,

- Impact on St. Mary's Church
- The impact of the proposed road on St.Mary's Church and the historic landscape.
- Increased levels of traffic in the area.
- Cumulative impact of traffic and parking from permitted SHD's.
- Impact of the road on the amenity of the lands.
- Excessive car parking proposed for the site.
- Impact of the proposal on the Protected Structures.
- Impact of the development on the High Amenity zoning objective.
- Concern regarding the future development of the overall landholding.
- Security and nuisance for neighbouring properties.
- Impact on trees, hedgerows and wildlife.

4.0 Planning History

Recent planning history on the subject site includes,

FS5/029/21 – Decision issued by the PA on a Section 5 Referral to determine that the provision of a playing pitch is development and is exempted development.

FS5/031/20 – Decision issued by the PA on a Section 5 Referral to determine that the erection of fencing which blocks habitually public access, the erection of a vehicular gate on a footpath and trenching/earthworks is development and is not exempted development.

On sites nearby –

ABP-317883-23 (PA Ref. F22A/0372) – Planning permission granted by the PA in 2023 for the redevelopment of Deer Park Hotel to include the demolition of the existing building and the construction of a four storey hotel building comprising 142 bedrooms and leisure facilities. A new access road from St. Mary's Church and to the east of the Howth Castle Demense lands was also proposed but omitted by condition. This decision is currently on appeal with a decision pending.

ABP-310413-21 – Planning permission granted by the Board in 2021 for a Strategic Housing Development comprising 162 apartments and associated site works on a site directly to the west of the access road to Howth Demense. This decision was quashed following a Judicial Review.

ABP-306102-19 – Planning permission granted by the Board in 2020 for a Strategic Housing Development comprising 512 residential units with restaurant/retail/café and creche uses on a site directly to the north of the access to Howth Castle Demense.

5.0 Policy Context

5.1. Development Plan

Fingal County Development Plan 2023-2029

- Zoning - The site is zoned objective HA – High Amenity – To protect and enhance high amenity areas.
- It is also located within the Howth Special Amenity Area Order Buffer Zone.

- The central area of the site is designated as the Howth Castle Demense Architectural Conservation Area (ACA). (The ACA includes the core area surrounding Howth Castle and the entrance avenue and gates, St. Mary's Church, the walled garden, the smaller kitchen garden, the ruins of an ancient church, the complex containing the Transport Museum, a large copse of trees to the west of the castle, as well as Howth Castle itself, adjoining outbuildings and formal gardens).
- Objective 93 is a Specific Map Based Local Objective for the site which seeks to *'Facilitate the provision of tourist, leisure, craft, artisan and restaurant uses at Howth Castle whilst ensuring the setting and character of the protected structures are maintained'*.
- Views are protected from the main entrance gate and for a section of the main avenue from the gate lodge to the castle.
- There are mapped objectives to Protect & Preserve Trees, Woodlands and Hedgerows within the Dememse lands.
- There are three Protected Structures located within Howth Castle Demense: Howth Castle (RPS Ref. 556), Church ruins (RPS Ref. 557), and St. Mary's Church (RPS Ref. 0594). (Note – St. Mary's Church is outside of the red line boundary for the development).
- There are four Sites and Monuments within Howth Castle Demense; three of these are within the development site boundary.

Chapter 6 – Connectivity and Movement

This chapter contains several policies and objectives which promote the shift to more sustainable modes of transport such as walking and cycling and include the following.

- Policy CMP9 – Prioritisation of Pedestrians and Cyclists - Support the prioritisation of pedestrians and cyclists and the provision of improved public realm to make walking and cycling safer, healthier, quicker, more direct and more attractive.
- Objective CMO6 – Improvements to the Pedestrian and Cyclist Environment - Maintain and improve the pedestrian and cyclist environment and promote the

development of a network of pedestrian/cycle routes which link residential areas with schools, employment, recreational destinations and public transport stops to create a pedestrian/cyclist environment that is safe, accessible to all in accordance with best accessibility practice.

- Objective CMO12 – Walking and Cycling and Green Infrastructure Network - Ensure that new walking and cycling routes are designed, insofar as possible, to function as links in the County's green infrastructure network and that adequate replacement and additional planting of native species and pollinators is provided and that SuDS approaches are used to treat surface water run-off.
- Policy CMP25 – Car Parking Management - Implement a balanced approach to the provision of car parking with the aim of using parking as a demand management measure to promote a transition towards more sustainable forms of transportation, while meeting the needs of businesses and communities.
- Objective CMO32 – Car Parking Standards - Implement appropriate car parking standards for a range of land-use types, where provision is based on factors such as site location, level of public transport accessibility and impact of parking provision on local amenity.
- Objective CMO45 – Design Manual for Urban Roads and Streets - Design new streets and roads within urban areas in accordance with the principles, approaches and standards contained within DMURS.

Chapter 9 – Green Infrastructure

- Policy GINHP21 – Protection of Trees and Hedgerows - Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/ or contribute to landscape character and ensure that proper provision is made for their protection and management in line with the adopted Forest of Fingal-A Tree Strategy for Fingal.
- Policy GINHP22 – Tree Planting - Provide for appropriate protection of trees and hedgerows, recognising their value to our natural heritage, biodiversity and climate action and encourage tree planting in appropriate locations.

- Objective GINHO46 – Tree Removal - Ensure adequate justification for tree removal in new developments and open space management and require documentation and recording of the reasons where tree felling is proposed and avoid removal of trees without justification.
- 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.
- 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.

Chapter 10 – Heritage, Culture and Arts

- Objective HCAO9 – Archaeology in the Landscape - Ensure that in general development will not be permitted which would result in the removal of archaeological monuments with above ground features, protected wrecks and that this will be especially the case in relation to archaeological monuments which form significant features in the landscape.
- Policy HCAP8 – Protection of Architectural Heritage - Ensure the conservation, management, protection and enhancement of the architectural

heritage of Fingal through the designation of Protected Structures and Architectural Conservation Areas, the safeguarding of designed landscapes and historic gardens, and the recognition of structures and elements with no specific statutory designation that contribute positively to the vernacular, industrial, maritime or 20th century heritage of the County.

- Policy HCAP18 – Designed Landscape Features, Settings and Views - Protect the setting, significant views, and built features of historic designed landscapes and promote the conservation of their essential character, both built and natural.
- Policy HCAP19 – Development and Historic Demesnes - Resist proposals or developments that would lead to the loss, or cause harm to the character, principal components or setting of historic designed landscapes and demesnes of significance in the County.
- Objective HCAO31 – Protection of Designed Landscapes - Identify the historic designed landscapes of significance in the County and determine the appropriate mechanism to ensure their future protection. Several of the most significant are already designated, as Architectural Conservation Areas.

Chapter 14 - Development Management Standards

14.17.7 – Car Parking – The development is within Zone 1 for parking standards.

Table 14.19 – Car Parking Standards

In the case of any development type not specified above, the Council will determine the parking requirement having regard to the traffic and movement generation associated with the development and the other objectives of this Plan.

5.2. Natural Heritage Designations

- 5.2.1. No designations apply to the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal relate to Conditions No. 2, 3, 9, 10 and 18 of the notification of decision of the PA.

Condition No. 2 states that,

The proposed road to the east of the Castle shall be omitted. The applicants shall submit the following for the written agreement of the Planning Authority:

- a. a revised site layout plan.*
- b. a revised road layout plan.*
- c. a revised landscaping plan; and*
- d. a typical detail that includes the appropriate upgrade of the existing in-use access route which provides for a stop start entrance where the existing protected gates are not affected.*

The amended layout plans shall include for additional details in relation to the 'wayfinding' signs, and signage for 'shared surfaces', 'cycle tracks', 'deliveries', 'bike parking', etc. in terms of signage and also final details of the access area which provides for a start stop access and all the recommendation included in the 'road safety assessment' as submitted. The revised detail should take cognisance of the requirements of all road users and any recommendations of an updated Stage 1 Road Safety Audit.

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

- The grounds of appeal request that the Board treat the appeal as per Section 139 of the Planning and Development Act 2000 (as amended). Regarding Condition No. 2, the applicant requests that the Board omit this condition in its entirety. The new road to the east is required to safely accommodate the predicted traffic volumes and mix of users and does not meet even the basic requirements of DMURS.

- The current historic avenue is inadequate in width and alignment to accommodate the increase in traffic. The measures required in response to the Traffic Safety Assessment (as set out in Appendix B of the appeal) cannot be carried out due to the historic landscape and the trees lining the avenue.
- The proposed road is planned and required to serve the proposed new hotel to be located at the rear of the castle, (ABP Ref. 317883-23, PA Ref. F22A/0372). This development is expected to be a significant generator of traffic.
- A 15th century Gate House (DU015-027002) of national archaeological and architectural importance defines the entry to Howth Castle. The building is in poor repair and the principle of retaining a busy access road in its immediate vicinity is questioned on heritage protection grounds alone.
- The narrow carriageway is restricted at the Gate House, which forms a pinch point. Immediate works to the Gate House would require scaffolding to be erected on all four sides of the structure. This could be in situ for years and would reduce the width of the entrance even more. In the longer term, continued vibrations from traffic would be inevitable, especially during the constriction and operational phases of the proposed hotel.
- The area around the castle will be pedestrianised to enhance amenity for visitors. Currently the road passing the castle is not safe and traffic to and from the proposed hotel will intensify the use of the road and bring traffic through a pedestrianised area.
- A Road Safety Audit (RSA) was carried out and submitted with the appeal. The RSA found that the key issue to be addressed is the provision of safe and appropriate passing bays on the avenue. Based on TII DMRB Roads Design Guidance DN-GEO-03030, the results of the audit found that, in order to create a safe environment a minimum of four passing bays from inside the gate to the castle would be required.

Condition No. 3 states that,

The parking provision shall not exceed 151spaces. The Overflow car park shall be omitted. Prior to the commencement of development, the applicant

shall submit a revised layout plan indicating the omission of the overflow car park and the provision of not more than 151 car parking spaces. Details of the electric vehicle charging points and how it is intended to manage the car parking area shall also be provided for the written agreement of the planning authority prior to the commencement of development.

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

- The grounds of appeal dispute the PA's opinion that some of the uses on the site will be complimentary and therefore the calculation of the number of parking spaces can be rationalised rather than counted independently / as stand-alone uses. The applicant submits that many of the uses are not complimentary and puts forward the example of the wedding venue which will be an independent use on the grounds.
- The appeal argues that a minimum of 309 car parking spaces is required to serve peak times, which are anticipated to be Saturday and Sundays when all the activities are open and an event may be booked for the marquee. Of the 309 spaces, 167 can be provided on a grass-crete overflow area.
- Concerns are raised that the limit of 151 spaces applied by condition would result in an under-supply of car parking, which would lead to parking on the verges and grass margins within the estate and could impact on safety.
- To demonstrate the actual average parking demand for the site, the applicant carried out a parking accumulation study using the TRICS database. The results found that on an average Saturday night when there is an event such as a wedding, there are expected to be 168 cars parked. With an allowance of 15% for 'operational spaces' this suggests a requirement of 193 spaces.
- The overflow car park would be required for the busier-than-average peak times such as major events during the summer afternoons and evenings. The applicant notes that events such as concerts and festivals are held in the castle grounds and have been known to attract large numbers of visitors.

Condition No. 9 states that,

The following requirements shall be strictly adhered to:

- (i) Prior to the commencement of development, the applicants shall submit amended drawings, for the written agreement of the Planning Authority, of the proposed pedestrian bridge above the Bloody Stream demonstrating that it be 3m in width to accommodate shared cycle and pedestrian activity.*
- (ii) The proposed dedicated pedestrian route which travels in a north-east direction from the Castle towards the main regional road shall be designed to be a shared cycle-pedestrian path of minimum 3m width and shall be provided with appropriate lighting. The detail shall be agreed in writing with the planning authority prior to commencement of development.*
- (iii) Prior to commencement of development a 'swept path analysis' drawing shall be provided demonstrating compliance with the access requirements of the emergency services in compliance with the 'Building Regulations Technical Guidance Document Part B.*
- (iv) A Stage 1 Road Safety Audit shall be completed and submitted for the approval of the planning authority prior to commencement, to the satisfaction of the Planning Authority, in compliance with the TII Publication 'Road Safety Audit GE-STY-01024'.*
- (v) The applicants shall submit a Mobility Management Plan for the proposed development, prior to occupation of the development.*
- (vi) A 'Construction Traffic Management Plan' shall be submitted for approval in writing with the Planning Authority prior to commencement of development.*
- (vii) The bicycle parking quantity, location and detail shall be agreed in writing with the planning authority prior to the commencement of development.*

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

- The applicant objects to the inclusion of parts (i) and (ii) of condition 9. It is their view that the upgrading the pedestrian route from the regional road to a

shared cycle route is both unnecessary and dangerous. In particular, the access from the regional road is too steep to allow safe access and egress for cyclists.

- Furthermore, the applicant has concerns that a 3m wide cycleway in this area would have a considerable impact on the landscape and would result in additional tree felling.
- An alternative route to the castle is set out in the appeal with cyclists entering through the main gate and using a dedicated lane running parallel and to the east of the vehicular access road. A pedestrian only route would be provided from the castle to the Howth Road, crossing the Bloody Stream pedestrian bridge and descending via a stepped embankment.
- The appeal notes that the wider masterplan for the estate includes a proposed extension to the Greenway network which passes through the castle grounds and connects Howth village with the proposed park to the east of the castle grounds without relying on Howth Road as the primary route.

Condition No. 10 states that,

Prior to the commencement of development, the applicant shall submit for the written agreement of the Planning Authority a revised layout plan indicating the relocation of the marquee to the east so that it is located outside of the root protection zone of the existing trees.

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

- The applicant notes that the location of the marquee was moved 2m to the north and 2m to the east in response to a request for further information.
- In the response to further information the design team took account of the lightweight construction of the marquee, the preservation of the views to the castle, the low visual impact of the marquee on the landscape, access for guests to and from the castle and service access. The revised location of the marquee has already taken account of the PA's concerns while also balancing the requirements and constraints of the site.

- The applicant submits that the primary concern for the location of the marquee is minimising the visual impact of the marquee on the setting of the castle. The proposed placing adjacent to a cluster of mature trees will help to achieve this.
- It is also submitted that the existing trees will be fully protected during construction and that the root protection areas will not be impeded on. The location proposed is largely outside of the root protection zones of the adjacent trees with only minimal intrusion into the outermost protection zones of two trees.
- The lightweight marquee structure will only require minimal substructure and the applicant is of the opinion that the details of the substructure and excavation can be agreed with the PA to ensure minimal disruption.

Condition No. 18 states that,

Prior to Commencement of development the developer shall pay the sum of €164,784.46 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development.

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.

- The applicant submits that the levy calculated in condition 18 is a gross overpayment and is contrary to the applicable exemptions included in the Fingal County Council Development Contribution Scheme 2021-2025.

- Reference is made to Section 11(i)(v) of the Development Contribution Scheme, which states that *‘Change of use applications are exempt, unless the revised usage constitutes a substantial intensification of use of the building or service.’* The applicant also considers the following sections of the Contribution Scheme to be relevant,
- 11(i)(q) - Demolition and Rebuild: Where permission is granted to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated as follows - Where a contribution has been previously paid – the contribution will be levied on the increased floor area of the new build over the old....
- 11(i)(r) - Internal layout alterations where no additional floor area is created, and external walls are not being removed.
- 11(i)(t) - Renovations to restore/refurbish structure deemed to be “Protected Structures” in the County Development Plan, where the Council is satisfied that works substantially contribute to the conservation or restoration of the structure, are exempt...Extensions to Protected Structures for commercial purposes are subject to a reduction of 50% of in the appropriate rate.
- 11(i)(u) – Temporary planning permissions.
- The applicant puts forward that the change of use of the protected structure (1578 sq. m.) for commercial purposes should be subject to a 50% reduction in the commercial rate levy under Section 11(i)(t).
- The appeal submits that the marquee should be exempt from levies under Section 11(i)(u) as it is a temporary structure.
- The floor area of the new Pavilion building was calculated incorrectly as a storage area of 28.1 sq. m. was included in the floor area. This should be omitted, thus reducing the floor area to be levied from 322.3 sq. m. to 294.2 sq. m.
- The applicant contends that section 11(i)(v) applies as the change of use would not be a substantial intensification of use on the site and that the use of the ground floor as a tearoom will be a low intensity use with minimal

intervention. It is also put forward that the full 50% reduction should have been applied to the 1616 sqm included in the planning application.

- Whilst the intensification of parts of the castle is essential from a conservation perspective, the applicant submits that a full 50% reduction in the levy should apply to all the castle and stables that are subject to a change of use for commercial purposes.

6.2. Planning Authority Response

A response from the PA was received on the 19th of April 2023 and includes the following,

Condition No. 2 -

- The PA is not satisfied that the applicant has justified the need for the new road to the east of the castle. Permission was sought for the road on the basis that it would convey service vehicles to the castle, whilst visiting traffic would continue to use the existing tree-lined avenue. Service vehicles would form a small fraction of the overall vehicles and access can be scheduled outside of peak hours.
- The provision of a new road through a historic castle demesne for service vehicles accessing the castle is unnecessary. This issue was raised initially in pre-planning discussions and the applicant was advised to seek alternative options. The PA considers that mitigation measures to adequately all accommodate road users to the castle have not been satisfactorily explored.
- The appeal references TII standard DN-GEO-03041 Geometric Design of Junctions for designing a scheme for passing bays along the access road. This standard applies to national and higher speed rural roads only and is not appropriate for the subject site. DMURS is the appropriate guidance for an urban setting.
- The PA notes that the information submitted from the TRICS database shows the maximum number of peak hour trips would be 39 trips between 5 and 6 in the evening. In their opinion this number does not justify the provision of a new road of the scale proposed.

- Whilst there may be events which would attract a larger number of trips over a short period of time, such as weddings, these trips would occur over a limited time period with all traffic using the avenue rather than the proposed road.
- Overall, the PA considers the proposed road to be an over-engineered response that would contravene Policy HCAP18 and Objective HCA O31 of the 2023 Development Plan.

Condition No. 3 -

- The PA draws the Boards attention to Table 14.18 of the 2023 Development Plan, which reflects the National Transport Authority's Greater Dublin Area Strategy to reduce car parking levels for non-residential commercial developments.
- The proposed development is located on the Howth Peninsula which is constrained by one vehicular access point at Sutton Cross. It is 650m from Howth DART Station and c. 300m from a good-quality bus service. It is within Zone 1 parking standards in the Development Plan, which attracts a reduced car parking demand of 50% when compared to the 2017 Development Plan, (which was the operative plan when the application was permitted).
- The PA notes the comparison made in the appeal with the level of parking within Newbridge Demense and submits that the location of Newbridge Demense is at a further remove from public transport and is a regional park serving a wide catchment. It is not comparable to the subject site or proposal.

Condition No. 9 (i) & (ii) -

- The PA acknowledges that the final c. 40m of the approach to the regional road is steep terrain. However the applicant shows this section on the site layout to be a ramped section of footpath without steps, which would be accessible to cyclists.
- The PA considers that the implementation of c. 300m long, 3m wide shared cycle and pedestrian path would have far less visual impact on the landscape than the proposed access road. The Board is requested to retain parts (i) and (ii) of Condition 9 in order to ensure that permeability and accessibility for pedestrians and cyclists is maximised.

Condition No. 10 -

- The PA notes that the applicant adjusted the location of the marquee structure under further information. However, the PA remains of the opinion that the revised location would still impact negatively on the root protection zone of a number of large trees and requests that the Board retain the condition.

Condition No. 18 –

- In their response the PA sets out the calculation for the levy applied under Condition No. 18. The calculation shows the omission of the marquee area (535 sq. m.) under Section 11(u) of the Contribution Scheme which relates to temporary structures.
- The area of the change of use from residential to commercial was 1,578 sq. m. The PO considered that the proposed change of use would represent an intensification of use in planning terms and the commercial rate was applied to the 1,578 sq. m.
- The new covered Pavilion is an extension to a Protected Structure and qualifies for a 50% reduction in the applicable rate under Section 11(t) of the Development Contribution Scheme.
- The PA requests that the terms of Condition 18 be upheld by the Board.

6.3. Observations

6.3.1. Observations were received from, Offington Resident's Association, the Select Vestry of the Parish of Howth, Cllr. David Healy, Evora Park Residents Association, Howth Sutton Community Council, Grace O'Malley Residents Association and Brendan & Siobhán Clifford. As the observations raised a number of similar issues, I have grouped the contents of the submissions in the following list,

- The development proposed is generally supported.
- The omission of the road is supported.

- The ownership of the road between the Deer Park entrance at Howth Road and St. Mary's Church (the St. Mary's Access Road) is queried. This is a private road and is not within the charge of the Local Authority.
- The St. Mary's Access Road is used for parking associated with the Church and the various uses carried out within the church grounds. Therefore, an easement of access and parking exists over the road.
- A need for the proposed road has not been demonstrated. The existing access road has proven to adequately serve the Deerpark Hotel, two public golf courses and a pitch and putt course.
- The proposed road would impact on Recorded Monuments and Protected Structures within the site, as well as mature trees and hedgerows. This would impact on local ecology and biodiversity.
- The road would impact on the ACA by virtue of its intervention into the historic landscape. It would also impact on the lands to the north and east of St. Mary's Church which have been identified as an area of archaeological significance by the National Monuments Service.
- Developments permitted under ABP306102-19 and ABP-310413-21 emphasised the screening of St. Mary's Church by the mature woodlands in the Demense as justification for the developments. The removal of the woodland would undermine these decisions.
- The level of parking proposed is too high and should be kept in line with the Development Plan.
- The proposed path referred to in Condition 9 should be retained as a walking route only as it will not provide a useful connection for cycling and would have a negative visual impact on the landscape.
- The applicant should be conditioned to provide a greenway link as shown in the appeal as an extract from the Howth Castle Estates Masterplan.
- The proposed road contravenes the HA zoning objective.
- The road would act to facilitate access for future residential development.

- The observation from the Evora Park Residents lists a number of objectives and NPO's that they claim the road materially contravenes.

6.4. Further Responses

The applicant /applicant submitted a response to the PA's submission on the 29th of May 2023 which included an engineering report, a historical landscape report and the following comments,

- The PA is mistaken in their view that the proposed road would serve only the castle, the wedding venue and the related tourism projects. It would also serve the golf club and bar, the Deerpark Hotel and the planned redeveloped hotel, as well as providing access to the proposed public park to the east of the castle.
- The pedestrianisation of the front of the castle and the removal of all traffic from this area would allow the castle to be presented without competing traffic.
- Reports supporting the proposal have been prepared and submitted with the appeal from the consulting engineers and a historic landscape specialist. It is argued that the works required to provide safe access on the existing avenue would require lay-by's which would impact negatively on the existing historic landscape at this location.
- The response reiterates that the PA organise up to 12 concerts a year at the castle, all of which require HGV's and additional traffic.
- The applicant / applicant disagrees with the PA's submission that the road design standard used is incorrect. There is no standard for passing bays in DMURS and DN-GEO-03041 is the only design standard, to their knowledge, that contains design standards for passing bays.
- With regard to traffic volumes, Traffic and Transport Assessment (TTA) Guidelines require the assessment of weekday commuter peak periods of development. However, this does not necessarily mean that this is representative of the peak periods for the development which would be at

weekends. Whilst peak weekday trips are estimated to be approximately 39 per day, there would be significantly more on the weekends.

- The applicant reiterates their argument that the development would require 309 car parking spaces, 4 bus spaces and 216 bicycle spaces. Restrictive parking could lead to overspill parking in nearby locations which would exacerbate the problem. The proposed maximum demand parking would cater for a number of events occurring at the same time and would be constructed using Grass Crete. They would also cater for events outside of the remit of the application such as concerts and local festivals.
- The car parking provision for Malahide Castle is referenced as comparable in location to the subject site but yet that development has 700 car parking spaces.
- The response reiterates that the upgrading of the pedestrian path to a cycle way is unnecessary and dangerous. In order to get the correct gradient, a significant number of mature trees would have to be removed.
- Instead of altering the location of the marquee, the applicant has designed a new irrigation system to feed harvested rainwater to the root system which would be under the area of the marquee, which would offset any loss of water through the cover of the marquee. The applicant is amenable to a condition requiring all works to be supervised by an Arborist should the Board feel that it is appropriate.
- Regarding the calculation of the levies applied under Condition No. 18, the applicant submits that the works proposed to the castle are in accordance with the provisions of Section 11(t) of the Development Contribution Scheme which states that renovations to restore/refurbish protected structures shall be exempt. Therefore, the applicant requests that the Board reduce the contribution levy by €149,515.50.
- The applicant does not agree with the PA that the proposed use represents an intensification of use given the historic use of the castle and the large household and staff numbers.

- Whilst the applicant is of the opinion that the change of use attracts no levies under Section 11(t), it is also submitted that, should the Board be of a different opinion then a levy could be applied based on a change of use of 591.2 sq. m. as set out in the appeal. This would floor area of attract a levy of €56,019.04.

7.0 **Assessment**

7.1. This is a first-party appeal against Condition No. 2, 3, 9(i) and (ii), 10 and 18 attached to the Planning Authority's notification of decision to grant permission under PA Ref. FW22A/0046. Condition No. 18 relates to financial contributions only. Under the provision of Section 48(13)(a) of the Act, the Board should consider only the matters under appeal and should not determine the relevant application as it had been made to it in the first instance.

7.2. **Condition No. 2 requires the following -**

The proposed road to the east of the Castle shall be omitted. The applicants shall submit the following for the written agreement of the Planning Authority:

- a. a revised site layout plan.*
- b. a revised road layout plan.*
- c. a revised landscaping plan; and*
- d. a typical detail that includes the appropriate upgrade of the existing in-use access route which provides for a stop start entrance where the existing protected gates are not affected.*

The amended layout plans shall include for additional details in relation to the 'wayfinding' signs, and signage for 'shared surfaces', 'cycle tracks', 'deliveries', 'bike parking', etc. in terms of signage and also final details of the access area which provides for a start stop access and all the recommendation included in the 'road safety assessment' as submitted. The revised detail should take cognisance of the requirements of all road users and any recommendations of an updated Stage 1 Road Safety Audit.

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

- 7.2.1. The grounds of appeal request that the Board remove this condition and allow the road to be constructed as part of the development. Access to the castle is from Howth Road to the north of the castle. This road travels past the eastern side of the castle to access Deer Park golf club and hotel. The new road would start at a point to the north of St. Mary's Church (RPS Ref. 594) and would initially follow the route of the original Howth Road. Works to accommodate the road in this area would involve removing the northern section of the wall which enclosed a large walled garden to the north-east of St. Mary's Church and any surviving remnants of greenhouse structures. The road verge would also connect with a corner of the Gaisford-ST. Lawrence family graveyard, which was designed by Edward Lutyens. From the northerly point the road would then turn southwards and cross the open parkland to the east of the castle. It is proposed to lower the section of the road within the field of view from the castle forecourt by 800mm. This would obscure the roads surface from view and would partially conceal car traffic on the road. This route is proposed to divert traffic away from the castle and to provide a pedestrian and cycle friendly space around the castle forecourt.
- 7.2.2. During the application process concerns were raised by the PA regarding the conservation impacts of the road. The PA believed the road would impact on the setting of St. Mary's Church, the historic fabric of the walled garden, the setting of the Gaisford-ST. Lawrence family graveyard, the views eastward from the castle. It would also result in the loss of c. 40 trees and would be a modern road intervention into the historic landscape. In a request for further information (FI) the PA asked that the applicant justify the provision of a 6m road through the historic landscape of the Demense.
- 7.2.3. In their response to the RFI the applicant states that the road is required to protect the castle precinct as a distinct entity within the overall estate, and to protect all road users from the intensification of traffic that will be created by the development of the Deer Park Hotel and golf course. The applicant also argued that the diversion of traffic away from the castle is warranted on conservation grounds. A 15th century gate house, Recorded Monument (DU015-027002), is located on the eastern edge of the historic building group and is in a vulnerable condition. Repair works are included in the application, but enhanced protection measures are required to ensure the building survives. Ongoing through traffic and construction traffic could further

destabilise the building. (I note to the Board that the report of the Conservation Officer (CO) recommends that stabilisation works to the gate house are carried out prior to any other works as it is not acceptable that the earliest element of the castle to be cordoned off and addressed at a later date).

- 7.2.4. The PA did not accept the applicant's response to the FI request and considered that the requirement for a new road had not been demonstrated and that it would represent an overdevelopment of the site. Instead, the existing access route should be maintained and upgraded. Both the Conservation and Transportation Departments considered that reducing the road width to a maximum of 5m would lessen its impact.
- 7.2.5. In the grounds of appeal, the applicant reiterates the justification for the road based on the intention to separate the uses within the demesne complex and to provide an appropriate, pedestrian-friendly setting for the castle complex and to provide a safe environment away from the intensification of traffic that will arise from the redevelopment of the Deer Park Hotel. The applicant argues that the current access is inadequate in width and alignment to accommodate the predicted traffic volumes and mix of users and that measures recommended in the Traffic Safety Assessment cannot be carried out on the avenue due to the historic landscape and trees. The existing avenue does not meet the basic requirements of DMURS.
- 7.2.6. The subject application is predicted to generate a total 2-way vehicular traffic flow of 514 passenger car units (PCU's) which comprise a range of different vehicles including delivery vehicles. When the subject development is combined with the proposed hotel development, the predicted 2-way vehicular traffic flow would be 1,013 PCU's. The applicant notes that these figures are based on weekday peak hours as required in the guidance. However, it is anticipated that weekend traffic would be considerably higher. Based on predicted traffic movements, the applicant states that minimum carriageway widths according to DMURS would be either 6.5-7m with separate footpaths and cycleways or 5-5.5m with separate footpaths and cycleways.
- 7.2.7. The Historic Landscape Impact Assessment submitted with the appeal sets out the progression of the landscape throughout the centuries which includes the introduction and abandonment of different routes through the demesne lands. The

report views the proposed road as yet another iteration of the access requirements of the demesne and whilst it would result in the loss of northern elements of the northern garden complex, it would provide an opportunity for healing the fragmentation of the complex. The conservation gains in restoring the relationship between the castle forecourt and the sunken gardens to the east would be enormous.

- 7.2.8. Whilst the reasoning behind the proposal for a new road is acceptable, I would agree with the concerns of the PA regarding the level of intervention required for the road, its impact on the historic structures in the north-eastern corner of the site and the overall heritage considerations. The site is partially located within the Howth Castle ACA and is within the Buffer Zone of the Howth Special Amenity Area Order.
- 7.2.9. The route of the new road would initially follow the line of the eighteenth-century road past St. Mary's church and along the outside of the northern part of the large walled garden to the northeast of St. Mary's Church before turning south to cross the parkland of the demesne. It would require the removal of a section of the walled garden's boundary wall. This includes not only the north wall but also a significant section of the east wall which is extant and underneath vegetation. The exact date of construction of the wall is unknown. However, it was undoubtedly built no later than 1730's, at which time the gardens were in existence. It is possible that the wall was in place before that, forming the barrier that separated the demesne of the castle from the public road. The road also comes very close to the corner of the Edward Lutyens designed graveyard, which was carefully sited to engage with Ireland's Eye as its backdrop. The construction of the road would also result in the removal of a number of mature trees which are categorised as Category A and B in the Arboricultural Survey of the demesne.
- 7.2.10. The Historic Landscape Impact Assessment submitted with the application notes that whilst a section of the road within the field of view of the castle would be lowered by 800mm, the surface would be obscured but not the traffic. From the east terrace of the sunken garden there is a significant view to the sea and Ireland's Eye. From here the road may have a conspicuous presence, depending on the details of the topography. It would not be visible from Muck Road or the Rhododendron Garden to the south of the castle. The assessment concludes that notwithstanding the potential

shortcomings of the road real gain is achieved by reconnecting the castle forecourt with the sunken garden to the east.

7.2.11. The Demesne lands have been subject to large scale interventions already with the laying out of a golf course along the western side of the entrance. Information submitted with the application notes that the north-eastern corner of the demesne retains the remnants of the historic formal gardens which are located to the east of St. Mary's Church. The gardens were in existence pre-1730 and were connected to the castle complex through walkways of mature Beech hedges, small sections of which remain. The location of the road would result in further degradation of the heritage within the site and in particular in the northern section of the site and to the east of the entrance.

7.2.12. The reasoning behind the proposal for a new road is accepted. The reconnection between the historic castle demesne and the sunken garden would be a conservation gain and would provide a pleasant environment for pedestrians. However, I would also share the concerns of the PA with regard to the level of intervention in the historic landscape required to facilitate the separation of uses within the wider site. The area to the east of the existing entrance and along the northern boundary of the demesne lands contain a number of historic structures including St. Mary's Church which is a Protected Structure, the remnants of the walled garden which dates from pre-1730 and the family graveyard which was designed by Edward Lutyens. The road would also require the removal of several mature trees which have been categorised as Category A and B in the Arboricultural Survey. It would also traverse the open parkland along the eastern side of the castle and despite the mitigation measures proposed, traffic would still be visible from the castle. Concerns were raised by the PA about the width and scale of the road throughout the planning application stage without any satisfactory response from the applicant.

7.2.13. The arguments made by the applicant regarding the impact of traffic on the fifteenth century gate house and the interventions required in the existing road are noted. However, although it is not an ideal situation, the existing access road functions and allows access for service vehicles and visitors to the Deer Park Hotel and golf course. The concerns of the design team regarding compliance with DMURS are noted. However, allowances are made in DMURS for Historic Contexts (Section

4.2.8) and states that if an area lies within an ACA or forms part of the setting of a Protected Structure then Development Plan policies apply. Furthermore, both the Transportation and Conservation Departments of the PA were confident that a solution can be found to provide a shared access through the existing route. I note that the report of the CO recommended that works to stabilise the Gate House should be carried out as a priority and should not be left to later phases of the development.

7.2.14. In consideration of the foregoing, I recommend that Condition No. 2 is attached to the decision to grant permission.

7.3. Condition No. 2 –

7.3.1. Condition No. 2 states that,

The parking provision shall not exceed 151 spaces. The Overflow car park shall be omitted. Prior to the commencement of development, the applicant shall submit a revised layout plan indicating the omission of the overflow car park and the provision of not more than 151 car parking spaces. Details of the electric vehicle charging points and how it is intended to manage the car parking area shall also be provided for the written agreement of the planning authority prior to the commencement of development.

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

7.3.2. The PA referred to Table 14.19 of the Development Plan when assessing the level of parking for the proposed development. They noted that the site is in Zone 1 for car parking which attracts a reduced parking demand in line with national policy. The proximity of the development to Howth DART station and bus services were also considered. The PA believed the applicant did not consider complimentary uses when calculating the car parking provision and that the restaurant/café, retail and garden centre uses should be considered to be complimentary uses which would attract a combined quantum of 52 spaces. An overlap of demand between the wedding marquee and tea rooms / wedding reception area would generate a demand of 36 spaces. Concerns were also raised on conservation grounds

regarding the quantum of car parking proposed and the impact it would have on the overall setting of the Demesne lands in terms of hard landscaping and lighting.

- 7.3.3. In the grounds of appeal, the applicant argues that the PA have overstated the complimentary uses and there will be occasions where the retail, wedding venue and tea rooms will all function independently, such as weekend afternoons. The applicant contends that the minimum number of car parking spaces required is 309. Any less would result in the spill over of parking in the area during busy periods. The applicant also notes that the castle grounds is used for a number of concerts and events during the year which attract increased levels of car parking. A comparison is made between Newbridge Demense and Malahide Castle which the applicant contends have similar services with a much greater level of parking.
- 7.3.4. The comparison between Newbridge House and Malahide Castle is noted. However, the subject application will be assessed on its merits and against the policies and objectives of the Development Plan. The quantum of car parking was calculated by the PA under the provisions of the 2017 Development Plan. The car parking standards in the current Development Plan are set out in Table 14.9 and are broadly in line with the previous standards apart from the quantum for a community use and restaurant/café. In accordance with the 2017 Plan, the current Development Plan encourages the consideration of complimentary uses when assessing parking requirements. The Development Plan also advocates for demand management in relation to parking, particularly where the land use is in proximity to high quality public transport.
- 7.3.5. I have reviewed the land uses proposed for the development and I am satisfied that the quantum of parking calculated by the PA is in accordance with the overall demand management policy in the Development Plan and also with the standards set out in Table 14.9 for development within Zone 1. It is reasonable that the applicant wishes to accommodate as many visitors as possible to the tourism and business offers within the complex. However, the castle is well served with public transport, with the entrance just 650m from Howth DART station and bus stops on the Howth Road opposite the main entrance. The additional concerts and events are outside the remit of this application, and I do not consider that the provision of additional car parking for incidental events would be in line with Development Plan policy in relation to demand management and the promotion of public transport.

Therefore, in consideration of the car parking standards set out in Table 14.9 of the Development Plan, the proximity of the site to public transport and the overall strategic national and local policies to encourage a modal transport shift, I recommend that Condition No. 3 be retained and attached to the decision to grant permission.

7.4. Condition No. 9(i) and (ii) requires that –

The following requirements shall be strictly adhered to:

- (viii) Prior to the commencement of development, the applicants shall submit amended drawings, for the written agreement of the Planning Authority, of the proposed pedestrian bridge above the Bloody Stream demonstrating that it be 3m in width to accommodate shared cycle and pedestrian activity.*
- (ix) The proposed dedicated pedestrian route which travels in a north-east direction from the Castle towards the main regional road shall be designed to be a shared cycle-pedestrian path of minimum 3m width and shall be provided with appropriate lighting. The detail shall be agreed in writing with the planning authority prior to commencement of development.*

7.4.1. A pedestrian route from the Howth Road at the north-eastern corner of the site and through the castle lands is proposed in the application. Details submitted state that the pedestrian link will meander through the trees along a historic route, with all trees in the area to be retained. The grounds of appeal argue that the upgrading of the pedestrian route from Howth Village would be too steep to allow for safe access and egress for cyclists. To achieve the required gradient, many trees would have to be removed. The appeal also states that cycling provision is planned for the main route through the avenue and that a Masterplan for the wider site includes a provision for a greenway from the north-east corner of the site to the western side.

7.4.2. A cross section illustrating the gradient between the existing embankment between the Howth Road and the proposed link road is provided in the appeal documents. The drawing shows a difference of c. 6.31 metres between the level of the public road and the top of the embankment within the grounds. The 'Tree Impact Plan –

Drawing 2', shows the removal of some trees along the route of the pedestrian link. However, this may be required to provide the new road. Condition No. 2 of the decision omits the proposed road. I have reviewed and assessed the requirements of Condition No. 2 in the section above and I recommend to the Board that the condition is attached, and the road omitted. Should the Board agree with my recommendation, the removal of the trees at this location may not be required.

- 7.4.3. During the site visit, I walked along the northern site boundary and observed that the public footpath is very narrow in places and that there is a significant change in levels between the road and the top of the embankment within the estate. I would agree with the argument put forward by the applicant that the provision of a cycle way at this location would be unsafe at the current levels and could require significant intervention in the landscape to be accommodated in a safe manner. I would also have a concern that the provision of a cycle route at this location could result in conflict with pedestrians.
- 7.4.4. There is a shared cycle lane on both sides of the road carriageway to the front of the site. This appears to have been upgraded recently to provide some separation between the road carriageway and the cycle lane to the east of the site entrance, coming from Howth Village. It is a Specific Objective of the Development Plan to provide the (GDA) Cycle Network Plan along the Howth Road and to the front of the site.
- 7.4.5. Whilst I acknowledge the policies and objectives of the Development Plan to enhance cycle routes throughout the county, I am not convinced that a shared pedestrian and cycle route can be safely accommodated at the north-eastern corner of the site. This is based on my observations during the site visit which clearly showed a very steep embankment along the northern site boundary with a narrow footpath adjoining the site. The level of works required to provide a cycle route at this location is unclear and could very likely require significant interventions in the landscape which would result in the widening of the archway in the historic wall, and which could result in the loss of trees at this location. I note that there is already a cycle lane in place along the Howth Road to the front of the site, which leads to the main entrance to the castle grounds. In consideration of the existing cycle infrastructure, along with the enhanced access arrangements to main gate, I am satisfied that a dedicated cycle route to the castle grounds would be accommodated.

Therefore, I recommend that the Condition No. 9(i) and 9(ii) are removed from the decision.

7.5. Condition No. 10 requires that -

Prior to the commencement of development, the applicant shall submit for the written agreement of the Planning Authority a revised layout plan indicating the relocation of the marquee to the east so that it is located outside of the root protection zone of the existing trees.

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

- 7.5.1. The applicant states that in response to a request for further information the location of the marquee was moved by two metres to the north and east. This amendment took into account the constraints of the site, which included the objective to preserve views to and from the castle, was designed with the project arborist and involved the retention of all mature trees in the area with the establishment of a no-dig zone prior to construction. In response to the requirements of Condition No. 10, the applicant is proposing that an irrigation system be installed upon the area of ground which is covered by the floor of the marquee to mitigate any water loss to the tree roots beneath the marquee structure. The rainwater would be harnessed from the roof and drip-fed to the area under the marquee floor.
- 7.5.2. The PA considered that the FI response did not move the marquee a sufficient distance from the mature trees and recommended that the proposed marquee be moved to a location which would sit fully outside of the Root Protection Area of the existing trees. The applicant has not given a reason as to why the irrigation system is proposed rather than moving the marquee to an area outside the Root Protection Area.
- 7.5.3. The Development Plan has an objective to 'Protect and Preserve Trees Woodlands and Hedgerows throughout the site. The application states that the marquee will be in place for a period of 5 years. Whilst the use is temporary in nature and would involve a lightweight construction, there is still an opportunity to damage the root system of the mature trees. In consideration of the Development Plan objective to

Protect and Preserve trees and in the absence of a reason as to why this cannot be achieved, I recommend that Condition No. 10 be attached.

7.6. Condition No. 18 requires that –

Prior to Commencement of development the developer shall pay the sum of €164,784.46 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the planning authority prior to the commencement of development.

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.

7.6.1. The applicant is of the opinion that the levy amount is excessive and does not include exemptions in the Fingal Development Contribution Scheme 2021-2025 which are applicable to the development. The grounds of appeal submit that the actual amount payable would be €103,962.83 based on

- An exemption for the temporary marquee structure under Section 11 (u)
- A reduction of 50% for an extension to the protected structures for commercial purposes to be applied under Section 11 (t)

7.6.2. The response to the appeal from the PA set out the calculations for the development contributions. The floor areas considered by the PA are as follows,

Measured area	Square Metres
Change of use (residential to commercial)	1,578
Wedding Marquee	535
New covered pavilion	322.3

Total measured area	2,435.5
Exempted area	
Wedding Marquee (Temporary use)	535
Area to be levied	1,900.3

- 7.6.3. It would appear that the floor area for the change of use was taken from the Schedule of Accommodation submitted with the application and confirmed under further information. In both documents the area given for the change of use is 1,578 sq. m.. Under Section 11(v), 'Change of use applications are exempt, unless the revised usage constitutes a substantial intensification of use of the building or services'. The PA considered that the change of use from residential to commercial represented a substantial intensification of use of the building and that the application of a commercial levy was appropriate. A commercial levy of €94.75 was applied to the floor area, which was subject to a change of use, (i.e. 1,578m²).
- 7.6.4. The PA considered the new covered pavilion to be an extension to a Protected Structure. Under Section 11(t) 'Extensions to Protected Structures for commercial purposes are subject to a reduction of 50% of the appropriate rate'. The wedding marquee is exempt from levies as it is a temporary structure.
- 7.6.5. There is a disparity in the arguments and figures put forward by the applicant in the grounds of appeal and in response to the PA's submission regarding their calculations. In the grounds of appeal, the applicant argues that the 'full 50% of the commercial rate should have been applied to the 1,606 sq. m. included in the planning application'. A note is attached to the figure of 1,606 sq. m. which states that the figure relates to the change of use areas and is corrected from the architectural drawings.
- 7.6.6. In the applicant's response to the PA, the argument put forward states that the works to accommodate the change of use from residential to commercial are renovations to restore/refurbish a Protected Structure and will substantially contribute to the conservation and restoration of the structure and as such should be exempt from development levies under Section 11 (t) of the Contribution Scheme. It is further

submitted that the works are also exempt under Section 11 (v) as the revised use is not a substantial intensification in the use of the building based on its historic use as a historic house with a large household with staff. If neither argument is accepted by the Board, the applicant requests that the change of use be calculated on a floor area of 591 sq. m. It is unclear as to how this figure was calculated as the floor areas referenced by the applicant, (retail -153m², tea rooms – 437.8m² and back of house areas – 296.2m²) do not add up to 591 sq. m. It also varies from the previous figure of 1,606 sq. m. which was put forward in the appeal. In the absence of clarity on the figures put forward in the appeal, I am satisfied that the figure of 1,578 sq. m. for a change of use as set out in the Schedule of Accommodation submitted with the application and amended and resubmitted under further information, can be applied for the purposes of calculating the development contributions.

- 7.6.7. I accept that the Wedding Marquee is a temporary use and is exempt from development levies under Section 11(u) of the Contribution Scheme. I also accept that the Pavilion area represents an Extension to a Protected Structure for commercial purposes and would be subject to a 50% reduction of the commercial rate in accordance with Section 11(t). However, I do not agree with the arguments put forward by the applicant that the entirety of the works proposed to the protected structure to facilitate a change of use can be exempted under Section 11(t) as they are renovations to restore/refurbish the protected structure, or Section (v) as they relate to a change of use.
- 7.6.8. Whilst some works proposed will contribute to the conservation or restoration of the structure, the primary focus of the works is commercial in nature. I do not agree with the argument put forward by the applicant that the volume of people involved in the historic residential use of the castle could be commensurate to that proposed under a commercial use. The change of use from residential to commercial represents an intensity of use by virtue of the increase in volumes of people visiting and using the castle, the considerations required to service the proposed use and the increased planning implications involved. Therefore, I am satisfied that a commercial levy can be applied to the area of the development which is subject to a change of use under Section 11 (v) of the Development Contribution Scheme.

- 7.6.9. Having reviewed the details at hand, I am satisfied that the PA have applied the conditions of the Development Contribution Scheme correctly and that the following contributions should be applied,
- 7.6.10. A commercial levy can be applied to the areas in the Protected Structure which are subject to a change of use in accordance with Section 11(v) of the Development Contribution Scheme as the change of use from residential to commercial represents a substantial intensification of use in the building. The area to be levied for the change of use is taken from the Schedule of Accommodation submitted with the application and is 1,578 sq. m.
- 7.6.11. A commercial levy can be applied to the Pavilion area within the courtyard. However, as the structure is an extension to a Protected Structure a reduction of 50% can be applied to the levy in accordance with Section 11 (t) of the Development Contribution Scheme. The PA applied the levy for the Pavilion based on a floor area of 322 sq. m. which includes the restaurant area itself (294 sq. m.) and a waste storage of 28sq. m. area on the western side of the castle. The applicant argued that the storage area should be omitted. However, as it is necessary for the functions of the restaurant and other services to be supplied within the development, I am satisfied that it can be included and that the floor area of 322 sq. m. can be levied.

8.0 Appropriate Assessment

- 8.1. An Appropriate Assessment Screening Report and a Natura Impact Statement (NIS) were prepared and submitted for the application. The PA requested further information (FI) regarding the NIS which related to,
- How mitigation measures would be achieved, including those in the construction management plan,
 - How the impact regarding the removal of bird foraging ground would be mitigated,
 - Revisions to the AA Screening Report to consider the Winter Bird Survey and to consider outcomes in the NIS,

- Consideration of the significant level of tree loss and the impact that would have on wildlife,
- The increased visitor pressure on the historic landscape.

- 8.2. A revised Screening Report and NIS was submitted in response to FI and concluded that, 'With the successful implementation of the outlined mitigation measures, no significant impacts are foreseen from the construction or operation of the proposed development...No significant adverse impacts on the conservation objectives of European sites are likely following the implementation of the mitigation measures outlined...'.
- 8.3. Condition No. 9(i) and 9(ii) require that the proposed pedestrian bridge over the Bloody Stream be increased in width to 3m to accommodate pedestrians and cyclists and that a shared pedestrian and cycle path with a minimum width of 3m shall be provided from the regional road across the Castle lands and shall be fitted with appropriate lighting. Under Section 139(1)(c) of the Planning and Development Act 2000 (as amended), hereinafter referred to as the 'Planning Act', the Board may consider an appeal against conditions attached to a grant of permission where, *'the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as it had been made to it in the first instance would not be warranted'*. As Condition No. 9 would result in additional development as defined under Part 3(1) of the Planning Act, it is subject to screening for appropriate assessment under Section 177U of the Planning Act.
- 8.4. I have considered the development proposed to Howth Castle and the adjoining lands in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A copy of the Screening Determination is appended to this report. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying features of Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA from effects associated with the construction of the development and contaminated materials such as dust, silt, oils or chemicals entering the watercourse and travelling downstream to the SAC. An appropriate assessment is required on the basis of the effects of the project 'alone'.

- 8.5. It is therefore determined that Appropriate Assessment (stage 2), under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.

Stage 2 – Appropriate Assessment

- 8.6. The following is an objective assessment of the implications of the proposal on the relevant Conservation Objectives (Co's) of Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA based on the scientific information provided by the applicant and taking into account expert opinion and submissions on nature conservation. It is based on an examination of all relevant documentation and submissions, analysis and evaluation of potential impacts, findings conclusions. A final determination will be made by the Board.
- 8.7. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness. Possible in-combination effects were also considered. A full description of the proposed development and the potential impacts from the construction and operational phases are set out in Page 4 and Table 2 of the Screening Report accompanying the application and Table 10 of the NIS.
- 8.8. Relevant European Sites:
- In the absence of mitigation, the potential for significant effects could not be excluded for:
- Baldoyle Bay SAC (SC 0000199)
 - Baldoyle Bay SPA (SC 0004016)
 - North-West Irish Sea SPA (SC 004236)
- 8.9. A description of the sites and their Conservation Objectives and Qualifying Interests/Special Conservation Interests, including relevant attributes and targets for these sites, are set out in Table 6 of the NIS. I have also reviewed the Conservation Objectives listed for each of the sites on the NPWS website (www.npws.ie). Table 1 below summarises the information considered for the Appropriate Assessment and the site integrity test. This information has been compiled from the information

contained in the NIS, the supplementary information for the NIS as requested by the PA, and information from the NPWS.

Table 1 - AA summary matrix

Baldoyle Bay SAC			
		Summary of Appropriate Assessment	
Special Conservation Interest (SCI)	Conservation Objectives	Potential Adverse Effects	Mitigation Measures
Mudflats and sandflats not covered by seawater at low tide [1140}	<p>To maintain the favourable conservation condition of the qualifying interests –</p> <p>Attributes include the Habitat area and community distribution.</p> <p>Targets are – the permanent habitat area is stable or increasing and to conserve the following community types in a natural condition: Fine sand dominated by <i>Angulus tenuis</i> community complex; and Estuarine sandy mud with <i>Pygospio elegans</i> and <i>Tubificoides benedii</i> community complex</p>	<p>Deterioration of water quality from pollution of surface and/or ground water during the construction phases.</p> <p>Silt entering the watercourse could impact on the physical structure of the habitat, its functionality and sediment supply,</p>	<p>Mitigation measures are listed in Table 11 of the NIS.</p> <p>Detailed pollution control measures are outlined in Table 11 of the NIS. The measures are designed to protect water quality during the construction phase. They include the appointment of an ecologist to oversee enabling works and to oversee the implementation of mitigation measures. Mitigation measures include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such as the installation of silt traps, dust control measures, storage requirements</p>

			for fuel, oil and chemicals and monitoring of dust and silt control measures. Post construction measures are not required.
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Overall Conclusion – Integrity Test

The applicant determined that following the successful implementation of mitigation measures, no significant are foreseen from the construction or operation of the proposed development. In particular, mitigation measures to ensure compliance with the Water Pollution Acts and to prevent silt, dust and pollution entering the Bloody Stream will satisfactorily address the potential impacts on downstream biodiversity and Natura 2000 sites.

The NIS considered the potential for cumulative impacts from nearby developments and found that the ‘the combination effects with other existing and proposed developments in proximity to the application would be unlikely, neutral, not significant and localised’. I agree with the conclusion as all developments in proximity to the subject site and the Natura 2000 sites listed are subject to Screening for AA to identify potential impacts and given the nature and scale of the subject proposal, I am satisfied that the mitigation measures outlined will be sufficient to prevent residual impacts and would not result in any cumulative impacts.

I have reviewed the mitigation measures proposed for the subject development and I am satisfied that the development would not result in any significant effects on the Baldoyle Bay SAC either alone or in combination with any other project. No uncertainty remains and the integrity of Baldoyle Bay SAC will not be adversely affected.

Baldoyle Bay SPA (004016)

Special Conservation Interest (SCI)	Conservation Objectives	Potential Adverse Effects	Mitigation Measures
Light-bellied Brent Goose [A046] Shelduck [A048] Ringed Plover [A137] Golden Plover [A140] Grey Plover [A141] Bar-tailed Godwit [A157]	<p>To maintain the favourable conservation condition of the qualifying interests, (QI's)</p> <p>Attributes for the QI's relate to population trend and distribution.</p>	<p>Deterioration of water quality from pollution of surface and/or ground water during the construction phases could result in changes to communities and vegetation and could impact on benthic</p>	<p>Mitigation measures are listed in Table 11 of the NIS. They include the appointment of an ecologist to oversee the project and standard measures to protect water quality during the construction</p>

Wetland and Waterbirds [A999]	Targets are measures by the long-term population trend stable or increasing and no significant decrease in the range, timing or intensity of use of areas by the QI's.	communities and feeding and foraging opportunities.	phase. Many of the measures listed relate to the implementation of good practices and site management. Post construction measures are not required.
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Overall Conclusion – Integrity Test

The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site. The NIS also determined that following the successful implementation of mitigation measures, no significant are foreseen from the construction or operation of the proposed development. In particular, mitigation measures to ensure compliance with the Water Pollution Acts and to prevent silt, dust and pollution entering the Bloody Stream will satisfactorily address the potential impacts on downstream biodiversity and Natura 2000 sites.

The NIS considered the potential for cumulative impacts from nearby developments and found that the 'the combination effects with other existing and proposed developments in proximity to the application would be unlikely, neutral, not significant and localised'. I agree with the conclusion as all developments in proximity to the subject site and the Natura 2000 sites listed are subject to Screening for AA to identify potential impacts and given the nature and scale of the subject proposal, I am satisfied that the mitigation measures outlined will be sufficient to prevent residual impacts and would not result in any cumulative impacts.

I have reviewed the mitigation measures proposed for the subject development and I am satisfied that the development would not result in any significant effects on the Baldoyle Bay SPA either alone or in combination with any other project. No uncertainty remains and the integrity of Baldoyle Bay SPA will not be adversely affected.

North-West Irish Sea SPA (004236)

Special Conservation Interest (SCI)	Conservation Objectives	Potential Adverse Effects	Mitigation Measures
Red-throated Diver [A001] Great Northern Diver [A003]	To maintain or restore the favourable conservation condition of the qualifying interests, (QI's).	Deterioration of water quality from pollution of surface and/or ground water during the construction	Mitigation measures are listed in Table 11 of the NIS. They include the appointment of an

Fulmar [A009] Manx Shearwater [A013] Cormorant [A017] Shag [A018] Common Scoter [A065] Little Gull [A177] Black-headed Gull [A179] Common Gull [A182] Lesser Black-backed Gull [A183] Herring Gull [A184] Great Black-backed Gull [A187] Kittiwake [A188] Roseate Tern [A192] Common Tern [A193] Arctic Tern [A194] Little Tern [A195] Guillemot [A199] Razorbill [A200] Puffin [A204]	<p>Attributes include – non-breeding population size, spatial distribution, forage spatial distribution and abundance, disturbance across the site.</p> <p>Targets include no significant decline in population or distribution, sufficient number of locations for foraging and the intensity frequency and timing of disturbance.</p>	<p>phases could result in changes to marine species and benthic communities and could impact on feeding and foraging opportunities for the QI's.</p>	<p>ecologist to oversee the project and standard measures to protect water quality during the construction phase. Many of the measures listed relate to the implementation of good practices and site management.</p> <p>Post construction measures are not required.</p>
<p>Overall Conclusion – Integrity Test</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site. The NIS also determined that following the successful implementation of mitigation measures, no significant are foreseen from the construction or operation of the proposed development. In particular, mitigation measures to ensure compliance with the Water Pollution Acts and to prevent silt, dust and pollution entering the</p>			

Bloody Stream will satisfactorily address the potential impacts on downstream biodiversity and Natura 2000 sites.

The NIS considered the potential for cumulative impacts from nearby developments and found that the 'the combination effects with other existing and proposed developments in proximity to the application would be unlikely, neutral, not significant and localised'. I agree with the conclusion as all developments in proximity to the subject site and the Natura 2000 sites listed are subject to Screening for AA to identify potential impacts and given the nature and scale of the subject proposal, I am satisfied that the mitigation measures outlined will be sufficient to prevent residual impacts and would not result in any cumulative impacts.

I have reviewed the mitigation measures proposed for the subject development and I am satisfied that the development would not result in any significant effects on the North-West Irish Sea SPA either alone or in combination with any other project. No uncertainty remains and the integrity of North-West Irish Sea SPA will not be adversely affected.

Appropriate Assessment Conclusion

8.9.22. In screening the need for Appropriate Assessment, it was determined that the proposal for works to Howth Castle, the Stable Block, adjoining buildings and attendant grounds, had the potential to result in significant effects on Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA. Appropriate Assessment was required in view of the conservation objectives of those sites.

8.9.23. Following a detailed examination and evaluation of the NIS all associated material submitted with the planning appeal as relevant to the Appropriate Assessment process and taking into account submissions of third parties, I am satisfied that based on the design of the proposed development, combined with the proposed mitigation measures, adverse effects on the integrity of Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA can be excluded with confidence in view of the conservation objectives of those sites.

My conclusion is based on the following:

- Detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites within a zone of influence of the development site.
- Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.

- A full assessment of risks to special conservation interest bird species and qualifying interest habitats and species.
- Site specific survey data and analysis of wintering birds.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- Consideration and assessment of in-combination effects with other plans and projects.
- The proposed development, alone and in combination with other plans and projects, would not undermine the favourable conservation condition of any qualifying interest feature or delay the attainment of favourable conservation condition for any species or habitat qualifying interest for these European sites.

9.0 Recommendation

- I recommend that Condition No. 2 is Attached.
- I recommend that Condition No. 3 is Attached.
- I recommend that Condition No 9 (i) is Removed.
- I recommend that Condition No. 9 (ii) is Removed.
- I recommend that Condition No. 10 is Attached.
- I recommend that Condition No. 18 is Attached.

10.0 Reasons and Considerations

10.1. Having regard to the nature of the conditions which are the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of Section 139 of the Planning and Development Act, 2000, as amended to :

Condition No. 2

To **ATTACH** Condition No. 2 as follows for the reasons and considerations hereunder:

Having regard to the High Amenity zoning objective for the site, its location within the Howth Castle Architectural Conservation Area and the Buffer Zone for the Howth Special Area of Conservation Area, it is considered that the works required to construct the road would result in excessive interventions in the historic landscape and would impact on features of heritage value to the overall character and setting of the Howth Castle Demense. It would therefore be contrary to the policies and objectives of the Fingal County Development Plan 2023-2029 and in particular with, Objective GINHO67, Policy HCAP and Objective HCA031, and would be contrary to the proper planning and sustainable development of the area.

Condition No. 3 -

To **ATTACH** Condition No. 3 for the reasons and considerations hereunder:

Having regard to the location of the site in close proximity to Howth DART Station and to public bus stops, the policies and objectives of the Fingal Development Plan 2023-2029, which promote demand management for private car use and a modal shift to public transport, and the provisions of Section 14.17.7 and Table 14.19 which set out the car parking standards for the area, it is considered that the quantum of parking set out in the decision of the PA is in accordance with planning policy and with the land uses proposed and is appropriate for the site and proposed development. Condition No. 3 is therefore in accordance with the proper planning and sustainable development of the area.

Condition No. 9 (i) and 9(ii) –

To **REMOVE** Condition No. 9(i) and 9(ii) for the reasons and considerations hereunder:

Having regard to the topography of the site along its northern extent, which involves a steep level change between the site and the public road, it has not been demonstrated that a cycle route can be safely accommodated at this location without

significant interventions in the landscape which could result in the removal of mature trees. This would be contrary to the Special Objective for the site to 'Protect and Preserve Trees, Woodlands and Hedgerows' within the site and would be contrary to the proper planning and sustainable development of the area.

Condition No. 10 -

To **ATTACH** Condition No. 10 for the reasons and considerations hereunder:

The proposed temporary marquee would be located within the root protection area for a cluster of mature trees. Having regard to the Special Objective for the Demense lands to 'Protect and Preserve Trees Woodlands and Hedgerows throughout the site', it is considered that the location of the marquee should be moved to an area outside the root protection zone for the nearby trees.

Condition No. 18 -

To **ATTACH** Condition No. 18 for the reasons and considerations hereunder:

The Board considers that, based on the reasons and considerations below that the terms of the Fingal Development Contribution Scheme 2021-2025 have been applied correctly in Condition No. 18 and that the condition should be attached to the permission.

A commercial levy can be applied to the areas proposed for a change of use, which are stated as 1,578 sq. m. in the Schedule of Accommodation submitted with the application and under further information. The Board considers that the exemption for Protected Structures under Section 11(t) does not apply as the works proposed are primarily commercial in nature and that the entirety of the works do not represent renovations to restore/refurbish the protected structure. The Board also considers that the change of use from residential to commercial represents a substantial intensification of use of the building and that a commercial levy can be applied under the provisions of Section 11(v).

A commercial levy can be applied to the Pavilion area, within the courtyard which has a floor area of 322 sq. m., and a reduction of 50% can be applied in accordance with Section 11 (t) of the Fingal Development Contribution Scheme 2021-2025.

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.

Elaine Sullivan
Planning Inspector

31st July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-316113-23		
Proposed Development Summary	Protected Structures (Ref: 0556 and 0557): change of use of from residential use to hospitality and tourist retail use. Demolition of some farm buildings. New access road, car parking and upgrade of existing access. NIS submitted with application. Additional information received 21/12/2022.		
Development Address	Howth Castle, Howth Road, Howth, Co. Dublin, D13 EH73		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
Conclusion			
No	X	N/A	
			No EIAR or Preliminary Examination required
Yes			

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the works proposed to refurbish, redevelop and change the use of part of the existing Howth Castle buildings, stable block and attendant lands in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site has a stated area of 6.98 hectares and is located at Howth Castle on the northern side of Howth Head. It is to the west of Howth village and on the southern side of Howth Road. The application area encompasses the northern portion of Howth Castle lands, including the main entrance gates, the Castle and all surrounding outbuildings. The existing access road from Howth Road also provides access to the Deer Park Golf Course and Hotel which is located to the south of the Castle

A full description of the proposed development is set out on Page 4 of the Screening Report prepared by the applicant. In summary, planning permission is sought to refurbish, redevelop, and change the use of the existing Howth Castle buildings, stable block and attendant lands. Their development involves landscaping, demolition of some farm buildings, the refurbishment and construction of new buildings, and a change of use of part of the ground floor and 1st floor of the castle and adjoining stable block and stable yard, from primarily residential use to hospitality and tourist retail use. Permission is also sought for a new access road with a pedestrian connection across the domain lands. In the decision of the PA, Condition No. 9 requires that the pedestrian connection be expanded to include cyclist facilities.

Directly to the north of the entrance to the site, a large housing development is under construction. Beyond this is the Irish Sea and the Natura 2000 sites of Baldoyle Bay SAC and the North-West Irish Sea SPA.

To the north of the site is the Deerpark Hotel and Golf Club, which also bounds the Howth Head SAC. To the west of the Howth Head peninsula is the North Bull Island SPA and the North Dublin Bay SAC. Along the eastern and southern extent of the peninsula are the Howth Head SPA, Howth Head Coast SPA and the Rockabill to Dalkey Island SAC.

The Screening Report and NIS submitted with the application did not include the North-West Irish Sea SPA (004236) as it was written before the site was designated. It is considered in the following screening determination.

The distances between the subject site and the nearby Natura 2000 sites are listed below,

SAC -

- Baldoyle Bay SAC (IE0000199) – 0.12km
- Howth Head SAC (IE0000202) – 0.4km

- North Dublin Bay SAC (IE0000206) – 1.4km
- Rockabill to Dalkey Island SAC (IE00030000) – 1.6km
- Irelands Eye SAC (IE0002193) - 1.6km
- Malahide Estuary SAC (IE 0000205) – 5.8km
- South Dublin Bay SAC (IE0000210) – 7.6km
- Lambay Island SAC (IE0000204) – 11.1km
- Rogerstown Estuary SAC (IE0000208) – 11.7km

SPA -

- North-West Irish Sea SPA (IE004236) – 0.16km
- Baldoyle Bay SPA (IE0004016) – 1.7km
- North Bull Island SPA (IE0004006) – 1.3km
- Ireland's Eye SPA (IE0004117) – 1.4km
- Howth Head Coast SPA (IE0004113) – 1.4km
- Malahide Estuary SPA (IE0004025) – 6.4km
- South Dublin Bay and River Tolka Esturay SPA (IE0004024) – 6.7km
- Lambay Island SPA (IE0004069) – 10.7km
- Rogerstown Estuary SPA (IE0004015) – 11.2km

Step 2: Potential impact mechanisms from the project

The development site is not in or adjoining any Natura 2000 site. The development would not result in any direct impacts on any European Site. Potential indirect impacts would arise from,

- Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality/ habitat degradation.
- Human disturbance/ noise/ lighting - resulting in disturbance and displacement effects to QI species during the construction and operational phases.
- Recreational pressure.

Step 3: European Sites at risk

Construction works would include the demolition of some farm buildings, the creation of a new access and gateway at the site entrance, a new access road, car parking area, the creation of

recreational areas and temporary structures as well as some minor refurbishment works to existing buildings, tree removal and landscaping.

The site is not located within or directly adjoining any Natura 2000 site. The Screening Report set the Zone of Influence (Zol) for the project at a radius of 2km. A hydrological connection, (the Bloody Stream), is in place from the site to the Natura 2000 sites to the north of the site.

Given the proximity of the site to some SPA's, there is a potential for disturbance to qualifying interests which may use the site for foraging. Using the source-pathway-receptor model, I have reviewed the potential pathway and effect mechanisms from the development in the context of potential impacts on the following Natura 2000 sites,

- Howth Head SAC (IE0000202) – 0.4km
- North Dublin Bay SAC (IE0000206) – 1.4km
- Rockabill to Dalkey Island SAC (IE00030000) – 1.6km
- Irelands Eye SAC (IE0002193) - 1.6km
- Malahide Estuary SAC (IE 0000205) – 5.8km
- South Dublin Bay SAC (IE0000210) – 7.6km
- Lambay Island SAC (IE0000204) – 11.1km
- Rogerstown Estuary SAC (IE0000208) – 11.7km
- North-West Irish Sea SPA (IE004236) – 0.16km
- Baldoyle Bay SPA (IE0004016) – 1.7km
- North Bull Island SPA (IE0004006) – 1.3km
- Ireland's Eye SPA (IE0004117) – 1.4km
- Howth Head Coast SPA (IE0004113) – 1.4km
- Malahide Estuary SPA (IE0004025) – 6.4km
- South Dublin Bay and River Tolka Estuary SPA (IE0004024) – 6.7km
- Lambay Island SPA (IE0004069) – 10.7km
- Rogerstown Estuary SPA (IE0004015) – 11.2km

All but three sites were excluded from further examination. Due to the proximity of Baldoyle Bay SAC, North-West Irish Sea SPA and Baldoyle Bay SPA and the presence of a hydrological pathway vis the Bloody Stream, these sites warranted further examination. The remainder of the sites were excluded as physical connections between the subject site and the European sites were limited to

indirect hydrological connections which would not result in significant impacts due to hydrological distance and the dilution factor. The sites were at sufficient remove from each other to avoid significant impacts from dust and noise. It is possible that the subject site may be used or visited by the qualifying interests of the closest SPA's. However, these species would temporarily avoid the works area and there is sufficient habitat available in the wider area and within the designated sites to avoid significant impacts. A Wintering Bird Survey was carried out on the area known as the Deer Park Lands, which include Howth Castle and Demense and the Deer Park Golf Course and Hotel. This survey informed the Screening Report prepared for the development and was used as a reference in this screening determination.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration of water quality through contaminated surface water runoff from silt, hydrocarbons and/or oil during the construction stage.	Direct hydrological connection to the site via the Bloody Stream.	Baldoyle Bay SAC	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410]
Deterioration of water quality through contaminated surface water runoff from silt, hydrocarbons and/or oil during the construction stage. Disturbance during the construction phase. Visitor Pressure	Direct hydrological connection to the site via the Bloody Stream.	North-West Irish Sea SPA	Red-throated Diver [A001] Great Northern Diver [A003] Fulmar [A009] Manx Shearwater [A013] Cormorant [A017] Shag [A018] Common Scoter [A065] Little Gull [A177] Black-headed Gull [A179] Common Gull [A182] Lesser Black-backed Gull [A183] Herring Gull [A184] Great Black-backed Gull [A187] Kittiwake [A188]

			Roseate Tern [A192] Common Tern [A193] Arctic Tern [A194] Little Tern [A195] Guillemot [A199] Razorbill [A200] Puffin [A204]
Deterioration of water quality through contaminated surface water runoff from silt, hydrocarbons and/or oil during the construction stage. Disturbance during the construction phase. Visitor Pressure	Indirect hydrological connection via the Bloody Stream	Baldoyle Bay SPA	Light-bellied Brent Goose [A046] Shelduck [A048] Ringed Plover [A137] Golden Plover [A140] Grey Plover [A141] Bar-tailed Godwit [A157] Wetland and Waterbirds [A999]

Baldoyle Bay SAC is approximately 0.12km from the subject site. Baldoyle Bay SAC extends from just below Portmarnock village to the west pier at Howth in Co. Dublin. It is a tidal estuarine bay protected from the open sea by a large sand-dune system. Information on the NPWS website states that Baldoyle Bay is a fine example of an estuarine system and contains four habitats listed on Annex I of the E.U. Habitats Directive and supports two legally protected plant species. As the area around the SAC is densely populated, the main threats to the site include visitor pressure, disturbance to wildfowl and the dumping of spoil on the foreshore.

Baldoyle Bay SPA is located on the inner estuary of Baldoyle Bay and is an important site for wintering waterfowl. Internationally important numbers of Pale-bellied Brent Goose and nationally important numbers of two Annex I Birds Directive species - Golden Plover and Bar-tailed Godwit - have been recorded at the site. Breeding wetland birds at the site include Shelduck, Mallard and Ringed Plover. Small numbers of Little Tern, a species listed on Annex I of the E.U. Birds Directive, have bred on a few occasions at Portmarnock Point but not since 1991.

The North-West Irish Sea SPA was designated as a Natura 2000 site in July 2023. This SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area. This SPA is ecologically connected to several existing SPAs in this area and constitutes an important resource for marine birds. It extends to the Howth coastline approximately 0.16km to the north of the subject site. The estuaries and bays that open into the SPA, along with connecting coastal stretches of intertidal and shallow subtidal habitats, provide safe feeding and roosting habitats for waterbirds throughout the winter and migration periods. These areas, along with more pelagic marine waters further offshore, provide additional supporting habitats (for foraging and other maintenance behaviours) for those seabirds that breed at colonies on the north-west Irish

Sea's islands and coastal headlands. These marine areas are also important for seabirds outside the breeding period.

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'					
European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?			
		Deterioration of water quality	Human Disturbance	Visitor Pressure	Effect D
Baldoyle Bay SAC					
Mudflats and sandflats not covered by seawater at low tide [1140]	To maintain the favourable conservation condition	Y	N	N	
Salicornia and other annuals colonising mud and sand [1310]	To maintain the favourable conservation condition	N	N	N	
Atlantic salt meadows [1330]	To maintain the favourable conservation condition	N	N	N	
Mediterranean salt meadows [1410]	To maintain the favourable conservation condition	N	N	N	
Baldoyle Bay SPA					
Light-bellied Brent Goose [A046]	To maintain the favourable conservation condition	Y	Y	N	
Shelduck [A048]	To maintain the favourable conservation condition	Y	N	N	
Ringed Plover [A137]	To maintain the favourable conservation condition	Y	N	N	
Golden Plover [A140]	To maintain the favourable conservation condition	Y	N	N	
Grey Plover [A141]	To maintain the favourable conservation condition	Y	N	N	
Bar-tailed Godwit [A157]	To maintain the favourable conservation condition	Y	N	N	
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition	Y	N	N	
North-West Irish Sea SPA					
Red-throated Diver [A001]	To maintain the favourable conservation condition	Y	N	N	

Great Northern Diver [A003]	To maintain the favourable conservation condition	Y	N	N	
Fulmar [A009]	To restore the favourable conservation condition	Y	N	N	
Manx Shearwater [A013]	To maintain the favourable conservation condition	Y	N	N	
Cormorant [A017]	To restore the favourable conservation condition	Y	N	N	
Shag [A018]	To restore the favourable conservation condition	Y	N	N	
Common Scoter [A065]	To maintain the favourable conservation condition	Y	N	N	
Little Gull [A177]	To maintain the favourable conservation condition	Y	N	N	
Black-headed Gull [A179]	To maintain the favourable conservation condition	Y	N	N	
Common Gull [A182]	To maintain the favourable conservation condition	Y	N	N	
Lesser Black-backed Gull [A183]	To maintain the favourable conservation condition	Y	N	N	
Herring Gull [A184]	To restore the favourable conservation condition	Y	N	N	
Great Black-backed Gull [A187]	To maintain the favourable conservation condition	Y	N	N	
Kittiwake [A188]	To restore the favourable conservation condition	Y	N	N	
Roseate Tern [A192]	To maintain the favourable conservation condition	Y	N	N	
Common Tern [A193]	To maintain the favourable conservation condition	Y	N	N	
Arctic Tern [A194]	To maintain the favourable conservation condition	Y	N	N	
Little Tern [A195]	To maintain the favourable conservation condition	Y	N	N	
Guillemot [A199]	To maintain the favourable conservation condition	Y	N	N	
Razorbill [A200]	To maintain the favourable conservation condition	Y	N	N	
Puffin [A204]	To restore the favourable conservation condition	Y	N	N	

In Baldoye Bay SAC, 'Mudflats and sandflats not covered by seawater at low tide' occur along the coastline directly to the north of the subject site and are located where the Bloody Stream enters the sea. Whilst the attributes listed for this habitat relate to habitat area and community distribution, contaminated run off could impact on the species such as invertebrates, molluscs and crustaceans which contribute to the diet of birds in the adjoining SPA's. Salicornia and other annuals colonising mud and sand, Atlantic salt meadows and Mediterranean salt meadows do not occur near the point where the Bloody Stream enters the sea and are at sufficient remove from the subject site to ensure that the conservation objectives for the qualifying interests are not compromised.

The potential for silt and waterborne pollution from construction to enter the waters around the SPA could lead to a degradation of habitats and a reduction in feeding opportunities for the qualifying species in the SPA's. Based on the precautionary principle the proposed development could impact on the targets and attributes for species in the SPA which relate to the location, distribution and abundance of foraging sites and opportunities. This could impact on the conservation objectives for these Natura 2000 sites.

The intensity, frequency, timing and duration is also listed as a measure to ensure that any disturbance that occurs would not significantly impact the achievement of targets for population size and spatial distribution. Human disturbance was considered in the screening determination and the Wintering Bird Survey prepared for the Screening Report noted that some qualifying interests for the nearby SPA's were observed on the site and that it may be used for foraging. However, the numbers observed were low and due to the temporary nature of the disturbance during the construction phase, it would not lead to significant impacts on the conservation objectives for the SPA's. There would be an increase in visitors to the site during the operational phase. However, the visitors would be mainly concentrated around the existing built-up areas of the site and given the urban nature of the surrounding areas and the managed golf course adjacent to the site, any additional visitors would not result in significant impacts on the foraging opportunities for birds using the site.

I conclude that based on the precautionary principle, the proposed development would have a likely significant effect 'alone' on the qualifying features of Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA from effects associated with the construction of the development and contaminated materials such as dust, silt, oils or chemicals entering the watercourse and travelling downstream to the SAC. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying features of Baldoyle Bay SAC, Baldoyle Bay SPA and the North-West Irish Sea SPA from effects associated with the construction of the development and contaminated materials such as dust, silt, oils or chemicals entering the watercourse and travelling downstream to the SAC. An appropriate assessment is required on the basis of the effects of the project 'alone'.

It is therefore determined that Appropriate Assessment (stage 2), under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.

