



An
Bord
Pleanála

Inspector's Report

ABP-317888-23

Development	Construction of single storey dwelling, new wastewater treatment system, alterations to existing vehicular entrance, landscaping and site works.
Location	Windward, Ceanchor Road, Howth Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0001
Applicant(s)	Declan Glesson
Type of Application	Planning Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Roxanne White and Karim Saba
Observer(s)	None.
Date of Site Inspection	25 th March 2024
Inspector	Tony Ewbanks

Contents

1.0	Site Location and Description.	3
2.0	Proposed Development.	3
3.0	Planning Authority Decision.	4
3.1	Decision.	4
3.2	Planning Authority Reports.	4
3.3	Prescribed Bodies	4
3.4	Third Party Observations	4
4.0	Planning History.	4
5.0	Policy and Context.	5
5.1	Development Plan.	5
5.2	National Heritage Designations.	10
5.3	EIA Screening.	10
6.0	The Appeal.	11
6.1	Grounds of Appeal.	11
6.2	Planning Authority Response.	13
6.3	Observations.	13
6.4	Further Responses.	13
7.0	Assessment.	16
8.0	Recommendations.	24
9.0	Reasons and Considerations.	24
10.0	Conditions.	24
	Appendix - Form 1: EIA Pre-Screening	29

1.0 Site Location and Description.

- 1.1. The appeal site is located at the end of the cul-de-sac'd Ceanchor Road in Howth, Co. Dublin. Ceanchor Road is characterised by large detached dwellings within large curtilages with substantial hard and soft boundary treatments fronting onto the public road. The Road connects to the Howth Cliff Path Loop walkway which runs parallel with the appeal site's eastern and southern boundaries. The northern third of the appeal site where the original dwelling stood and where the new dwelling is being constructed is flat. The remaining two-thirds of the appeal site slopes steeply southwards with grounds levels declining further as it meets the adjoining coastal path to the east and southern. The site is defined by substantial planning along all boundaries including concrete post and timber panel fencing, mature trees and shrubs.

2.0 Proposed Development.

- 2.1 Planning permission is sought to revise the new dwelling and associated development approved under Reg. Ref. F17A/0210 and as extended under Reg. Ref. F17A/0210/E1 as follows:
- i) introduction of a timber garage door,
 - ii) introduction of a new aluminium framed window to the western elevation,
 - iii) replacement of the eastern elevation's timber cladding with a dry natural stone finish to match the northern and western elevations,
 - iv) amendment of the eastern elevation's window cill levels, and
 - v) lowering of the cloister roof height by 450mm and narrowing its depth by 300mm from 450mm to 150mm.

3.0 Planning Authority Decision.

3.1 Decision.

3.1.1 A Notification of Decision to Approve was issued on the 3rd August 2023.

3.2 Planning Authority Reports.

3.2.1 Planning Reports.

- The planning authority's report recommended approval as set out in Chief Executive Officer's (CEO) Decision Order No. PF/1694/23. No difference in recommendations or reasons for refusal between the planner's and CEO decisions. The CEO Decision Order had fewer conditions.

3.2.2 Other Technical Reports.

- Water Services – No objections subject to conditions.
- Transportation – No objections subject to conditions.
- Parks – Recommends conditions.

3.3 Prescribed Bodies.

3.3.1 None.

3.4 Third Party Observations.

3.4.1 None.

4.0 Planning History.

4.1 **F17A/0210** – Granted 01.11.17 - Demolition of existing detached single-storey dwelling and outbuildings; construction of replacement detached single-storey dwelling with internal courtyard; upgrade of existing septic tank with new wastewater

treatment system; alterations to existing vehicular entrance; landscaping and ancillary site works.

4.2 **F17A/0210/E1** – Granted 24.04.23 – Extension of Duration of Permission (F17A/0210).

4.3 **F22A/0659/ABP-315902-23** – Granted 23.01.23. Construction of 2no. pumping stations at turning circle at Canchor and Carrickbrack Roads and associated infrastructure.

5.0 Policy Context.

5.1 Development Plan.

Fingal Development Plan 2023-2029.

5.1.1 The appeal site has two zonings. The northern part is zoned RS – Residential where the principal objective is to ‘... *provide for residential development and protect and improve residential amenity*’. The zoning’s vision seeks to ensure new development in existing areas has a minimal impact on and enhances residential amenities. Residential is a use identified as permitted in principle. The southern part of the appeal site is zoned HA – High Amenity where the principal planning objective is to ‘... *protect and enhance high amenity areas*’. The zoning’s vision seeks to protect highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place.

5.1.2 The site is located within the Howth Special Amenity Area and subject to the Howth Special Amenity Area order (SAAO).

5.1.3 I consider the following policies and objectives to be relevant to the assessment of this appeal:

- **Policy GINHP12: Protected Sites** - *Protect areas designated or proposed to be designated as Natura 2000 sites (i.e. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed Natural Heritage Areas (pNHAs),*

Natural Heritage Areas (NHAs), Statutory Nature Reserves, and Refuges for Fauna.

- **Policy GINHP17: Protection of European and National Sites** - *Strictly protect areas designated or proposed to be designated as Natura 2000 sites (i.e. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs); also known as European sites) including any areas that may be proposed for designation or designated during the lifetime of this Plan.*
- **Policy GINHP18: Species Protection** - *The Council will seek to protect rare and threatened species, including species protected by law and their habitats by requiring planning applicants to demonstrate that proposals will not have a significant adverse impact on such species and their habitats.*
- **Policy GINHP25: Preservation of Landscape Types** - *Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application.*
- **Policy CSP22: Howth, Sutton and Baldoyle** - *Consolidate the development and protect the unique identity of Howth, Sutton and Baldoyle. This includes protection against overdevelopment.*
- **Policy CSP23: Howth SAAO** - *Protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand.*
- **Policy GINHP26: Preservation of Views and Prospects** - *Preserve views and prospects and the amenities of places and features of natural beauty or interest including those located within and outside the County.*
- **Objective DMSO1: Screening for Appropriate Assessment** - *Ensure that all plans and projects in the County which could, either individually or in combination.*
- **Objective DMSO23: Separation Distance** - *A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure*

privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

- **Objective DMSO142: Invasive Species Control Plan** - *Where invasive plant species such as Japanese Knotweed, Giant Hogweed, Himalayan Balsam, Rhododendron Ponticum and three-cornered leek are present on a development site, the developer shall submit an invasive species control plan as part of the planning process. This control plan will describe what and where invasive species are present and what control measures will be implemented, who will implement these and when they will be implemented. Annual monitoring reports on the control program are to be submitted to the Planning Authority until the invasive species is eradicated.*
- **Objective DMSO248: Design of Lighting Schemes** - *Require that the design of lighting schemes minimises the incidence of light spillage or pollution into the surrounding environment. New schemes shall ensure that there is no unacceptable adverse impact on neighbouring residential or nearby properties; visual amenity and biodiversity in the surrounding areas.*
- **Objective GINHO31: Invasive Species** - *Continue the control programs of invasive species with all relevant stakeholders and landowners to control the key invasive species.*
- **Objective GINHO32: Development and Invasive Species** - *Ensure that proposals for development do not lead to the spread or introduction of invasive species. If developments are proposed on sites where invasive species are or were previously present, the applications will be required to submit a control and management program for the particular invasive species as part of the planning process and to comply with the provisions of European Communities (Birds and Natural Habitats) Regulations 2011 and EU Regulations 1143/2014.*
- **Objective GINHO33: Annex I and Annex II** - *Ensure that development does not have a significant adverse impact on proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna,*

Habitat Directive Annex I sites and Annex II species contained therein, and on rare and threatened species including those protected by law and their habitats.

- **Objective GINHO55: Protection of Skylines** - *Protect skylines and ridgelines from development.*
- **Objective GINHO56: Visual Impact Assessments** - *Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.*
- **Objective GINHO57: Development and Landscape** - *Ensure development reflects and, where possible, reinforces the distinctiveness and sense of place of the landscape character types, including the retention of important features or characteristics, taking into account the various elements which contribute to their distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.*
- **Objective GINHO58: Sensitive Areas** - *Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks, and campsites, and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.*
- **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 GINHO60: Protection of Views and Prospects** - *Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.*
- **Objective GINHO61: Landscape/Visual Assessment** - *Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects.*

Howth Special Amenity Area Order 1999.

5.1.4 The SAAO is a recognition of the peninsula's outstanding natural beauty, special recreational value and need for nature conservation. The Order sets objectives for the enhancement of the designated area, policies seeking to preserve its character and special features and objectives for the prevention and limitation of certain forms of development. For example Policy 2.1.1 states views from the network of footpaths and roads shall be preserved and that development which the Council considers would have a significant negative impact will not be permitted. Policy 2.2.1 also states the Council will not permit development which significantly changes the skyline or the rural character of the SAA slopes visible from the roads beside Dublin Bay and the Baldoyle Estuary.

Howth SAAO Design Guidelines.

5.1.5 In residential areas it is the objective of the Guidelines to protect residential amenity; protect and enhance the attractive and distinctive landscape character and to ensure development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas. The Guidelines provide advice on development siting and design, boundary treatment, landscaping and suitable species types, stone walls, site entrances and driveway and parking area designs.

Howth Invasive Species Mapping Report 2018

- 5.1.6 Fingal County Council commissioned a survey of invasive species of Howth of the coastal cliffs tracks and beaches between Bellingham's Farm and the Baily Lighthouse. A total of 32no. invasive species were recorded on coastal cliffs.

Howth SAAO Design Guidelines.

- 5.1.7 The Guidelines inform the general public of methods which can be used to protect and enhance the unique characteristic environment of the SAAO when undertaking development. It provides advice for site planting and design guidance for the conservation of existing boundaries and the planting of new. It considers the conservation of existing mature trees and hedgerows to be the most important factor in the successful integration of a building into the landscape and underlines the importance allowing their growth and minimising their destruction when undertaking development. *Cuprocyparis leylandii* is identified in the Guidelines as a quick growing evergreen hedge that should be avoided when planting new boundaries in the Howth SAAO.

5.2 Natural Heritage Designations.

- 5.2.1 The appeal site's western and southern boundaries abut the Howth Head Special Area of Conservation (Site Code: 000202). At its closest the appeal site lies c.60m west of and c.50m north of the North-West Irish Sea Special Protection Area (Site Code: 004236); c.1.2km west of the Howth Head Howth Head Coast Special Protection Area (Site Code: 004113); c.400m north-east of the North Bull Island Special Protection Area (Site Code: 004006) and the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000).

5.3 EIA Screening.

- 5.3.1 The construction of 500 or more dwellings requires EIA under Section 5 of the Planning and Development Regulations 2001 (as amended). A proposal for one dwelling would be exempt from such a requirement. Given the nature and scale of the proposed development, its location within an urban setting and proposed

connection to existing infrastructure there is no real likelihood of significant emissions or effects. The requirement for submission of an EIAR or carrying out of an EIA may be set aside.

6.0 The Appeal.

6.1 Grounds of Appeal.

6.1.1 The case for appeal can be summarised as follows:

- No Appropriate Assessment / Natura Impact Statement was included with the application or requested by the local authority. Appropriate Assessment should have been carried out due to the proximity of Natura 2000 sites, general construction and demolition hazards, the proposed outdoor swimming pool and pool discharge and structural failure, foul and soakaway run-off, glint and glare from large windows and light pollution. There are many mechanism of transfer between the site and Howth SAC.
- No site characterisation data for foul sewage was included with the application or requested by the local authority. Such information should have been submitted given the proximity of the site to Howth SAC and SAAO and the increased risk of damage to habitats and cliff erosion.
- Soakaway and Surface Water Drainage. Condition 4(e) requires the soakaway to be located 5m from any structure and 3m from any boundary. The site has flooded in the past with water ending up in our property. The application should be refused as we have not been allowed to comment on the Applicant's response to Condition 4(e) and ensure the solution can meet the existing flooding issues.
- No information of PV panels has been submitted. We are concerned of the unknown impact PV panels will have on Howth's SAAO protected views from Ceanchor Road, other roads and the Cliff Path and on the wildlife and ecology of the Howth SAC.
- Pop Up Cloister Roof. We note the proposed reduction of the roof by 450mm but suggest it potentially impacts on Howth SAAO's protected views and should be

removed or lowered to match the dwelling's main roof. The dwelling approved under F17A/0210 was considerably lowered than the proposal.

- Single Residential Unit – We request conditions attached to F17A/0210 be applied in combination with the conditions of F23A/0001 in particular Conditions 2 and 3 of F17A/0210 that required the approved dwelling to be a single residential unit.
- Condition 2 of F23A/0001 requires the conditions of F17a/0001 be complied with save for the changes to plans submitted in this application. This is confusing. For example we ask whether the new landscaping plan required under Condition 6(v) of F23A/0001 can replace the boundary and landscaping drawings approved in compliance with Conditions 4(d) and 6(a) of F17A/0210?
- Condition 3 requires the proposed development to incorporate anti-glare glass to the southern elevation. This should be expanded to include the eastern elevation which will be visible from the Cliff Path. The angle of glass in the south east corner may magnify, reflect or refract light adding to light pollution and/or glint and glare.
- Condition 5(a) requiring no object, structure or landscaping be placed in the vehicular entrance visibility triangle over 900mm in height is unenforceable. We ask that the visibility triangle be described by dimensions or diagrams and expanded to include 10m of the north south boundary between 'Windward' and 'Couleen'.
- Condition 6(v) of F23A/0001 requiring a landscaping plan and planting schedule should be removed as Condition 6(a) of F17A/0210 states its landscaping plan (Drawing P-06) was the final plan.
- Condition 4 of F17A/0210 has already been actioned. Are the documents submitted in compliance of Condition 4 to be used or submitted again.
- Does the approved pre-commencement document complete Condition 8 of F17A/0210?
- Are Conditions 9 and 10 of F17A/0210 now replaced by Conditions 4 of F23A/0001?
- Is Condition 11 of F17A/0210 regarding obscured glass now in F23A/0001 for all bathroom windows, rooflights in bathrooms, changing/room/sauna in the southwest

corner of the courtyard?. We request this window facing south is included in the obscure glass condition to protect the amenities of the area and Howth SAAO.

- We request the guest suite's western window be relocated and/or made opaque. The legacy building and dwelling approved under F17A/0210 had no west facing windows to preserve residential amenity.
- Request new condition requiring removal of inappropriate and invasive species on site boundary including mature Leylandii on boundary with our avenue in order to comply with Howth SAAO species requirements, EU Invasive species legislation and Development Plan objectives. Request new condition requiring removal of damaged and/or potentially dangerous trees 1m (approx.) from our avenue. Can Condition 6(d) of F17A/210 and Conditions 6(iii) and (iv) of F23A/0001 requiring a tree bond and arborist to maintain trees be actioned?

6.2 Planning Authority Response.

- The planning authority confirms its decision is consistent with the proper planning and sustainable development of the area and request their decision to conditionally approve be upheld, in particular Condition No. 6 (iv)(Tree Bond) and a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3 Observations.

- None.

6.4 Further Responses.

6.4.1 The Applicant's responses to the appeal are summarised as follows:

- F23A/0001 represents a slightly revised house design from what was approved under F17A/0210 and F17A/0210/E1. The proposed development at Windward respects the character and amenities of the area in comparison to recently approved development in the immediate vicinity, which have included large and small plots with contemporary styled, larger gross floor area dwellings. A detailed assessment of

these contemporary approvals was included. A precedent has been set for large multilevel dwellings in the area. The proposed development is suitably sized within context of the appeal site and surrounding dwellings. The proposed development will not be visually dominant, will not seriously injure the surrounding landscape and would not negatively impact on views from the Cliff Path or from the coastal area.

- The appeal references the lack of an Appropriate Assessment or Natura Impact Statement. Foul and surface water drainage will be managed in accordance with current standards and best practice ensuring no negative impacts to any protected habitats. The Council was satisfied that development site sat outside the protected site boundary and that there was no likelihood of significant effects on any European site during construction or operation of the proposal. 's assessment report.
- Concerns over the lack of any site characterisation data submitted with F23A/0001 are addressed in Condition 4 which requires the foul drainage proposal not to discharge into the surface water system and vice versa and that it will comply with the EPA's Code of Practice for Wastewater Treatment and the Disposal Systems Serving Single Dwellings (2021). The surface water drainage proposal will comply with the BRE Digest 365 and the Greater Dublin Regional Code of Practice for Drainage Works (2006).
- Regarding concerns about the pop-up cloister roof we contend that the proposed design is appropriate and will not have a negative impact on protected views. The Council's planning report stated '*... inclusion of the feature would not be detrimental to the visual amenities of the area or views out across the site*'. The redesigned pop-up roof adds interest and provides for an aesthetically pleasing architectural design that fits well into its surrounding context.
- Regarding concerns about single residency we contend the development will be used a single resident unit.
- Regarding concerns over the landscaping plan Condition 6(v) of F23A/0001 will supersede the conditions under the parent permission. F23A/0001 requires the development to comply with the conditions under F17A/0210 save for any changes to plans approved under this application.

- Regarding the Appellants' request a new condition be added to remove damaged or potentially dangerous trees Condition 6(iii) and (v) of F23A/0001 can accommodate any necessary removals if deemed necessary by a suitably qualified landscape architect or arborist.
- Regarding anti-glare and obscure glass we contend that under Condition 2 of F23A/0001 the provision of anti-glare glass to the southern elevation is sufficient in the interests of the proper planning and sustainable development of the area.
- Regarding vehicular entrance visibility Condition 5(a) of F23A/0001 is sufficient in mitigating any potential issues. We note the existing entrance operated safely with the previous dwelling. No further conditions are required.
- Regarding Conditions 4 and 8 of F17A/0210 the Appellants seek clarity on how they should be adhered to unless a new condition is added to F23A/0001. We note the provisions of Condition 2 of F23A/0001. The Appellants also request Condition 4 of F23A/0001 replace Conditions 9 and 10 of F17A/0210 regarding surface water and foul drainage. We note Condition 2 of F23A/0001 and submit it requires regard being taken of the parent permission F17A/0210 save for any changes to the development and the conditions attached to F23A/0001 thereby allowing adherence to Condition 4.
- The Appellants' request that a new condition be applied requiring the guest suite's western window be relocated or obscured is considered unnecessary. The window is at ground level and the separation distance will not result in any overlooking of neighbouring dwellings.
- The development is compliant with the policies and objectives of the Fingal Development Plan. The principle of development has been established by virtue of the site's planning history and the precedents located within the surrounding area. The development would provide for the more efficient use of the currently underutilised site and result in a dwelling more suitable to the Client's needs. We ask the Council's decision be upheld.

7.0 Assessment.

7.1 Having carefully reviewed the Appellants' grounds for appeal, the County Council's assessment of F23A/0001 and the Applicant's response I am of the opinion that it is neither necessary nor warranted to reconsider the entire development proposal which benefits from the permission granted under F17A/0210 and extended under F23A/0210/E1. For the sake of expediency the parent permissions shall be referred to as F17A/0210 herein.

7.2 I am satisfied F23A/0001 sought permission only to amend the previously approved dwelling not to reapply for it. The purpose of this appeal therefore is to determine whether the proposed revisions are consistent with national and local planning guidance and policy objectives within context of the proper planning and sustainable development of the area. As such I consider the following issues to be critical to the assessment of this appeal.

7.3 Foul and Surface Water Drainage Data.

7.3.1 Points 2 and 3 of the appeal argue that permission should be refused as no site characterisation data for foul sewerage or surface water drainage data was submitted with F23A/0001. The proposed revisions have no direct bearing or effect upon on the pre-approved foul and surface water drainage details. The appeal site and any potential negative effects arising from the development's construction and/or operation is given further protection through Condition 4 of F23A/0001 which stipulates foul water shall not discharge into the surface water system and vice versa. Condition 4 (b) requires the approved foul water drainage system to comply with the EPA's Code of Practice for Wastewater Treatment and Disposal Systems Serving Single dwellings (2021). Condition 4 (d) and (e) require the approved surface water drainage system to comply with the Greater Dublin Regional Code of Practice for Drainage Works (2006) and the BRE Digest 365 Soakaway design standard.

7.3.2 Having reviewed the local planning authority's assessment of F23A/0001 I am of the opinion that there was no critical deficiency in available information when assessing no the application or do I agree with the contention that the general public was

denied an appropriate the opportunity to comment on the foul and water drainage proposals. That opportunity was provided under F17A/0210. I note the Appellants' objected to the 2017 application on such grounds and that these issues were duly considered but ultimately dismissed by the Water Services Department. I am satisfied these matters do not require reassessment as the proposed revisions have no material bearing or significance to the approved dwelling and as such are not reasonable grounds to overturn the Council's decision. .

7.4 Proposed PV Panels.

- 7.4.1 The revised statutory notices submitted in response to the local authority's FI request referenced, in part, '.... (i) *replacement of the approved glazed roof with a green roof and PV panels ...*'. The revised Site Layout Plan (Drawing No. P01 C) includes a rectangular form on the new dwelling's northern roof. There are however no annotations on Drawing No. P01 C to confirm that these are indeed to be PV panels.
- 7.4.2 The FI request did not touch on any issue that would have involved introducing PV panels as a response. Section 4.1 (4th para. page 17) of the Applicant's appeal response did not list PV panels as an element that differed from what was approved under F17A/0210. No PV panel plans, drawings or specifications were submitted in the revised Proposed Elevations (Drawing No. P04). Articles 22 and 23 of the Planning & Development Regulations 2001 (as amended) require the submission of plans, elevations, sections and such other particulars, as are necessary to describe the works to which the application relates. In the absense of any plans, elevations, sections or specifications pertaining to PV panels I am satisfied that planning permission, if granted, would not extend to the installation of PV panels. Such an opinion however does not abrogate the Applicant's exempt development rights pertaining to PV solar panels afforded under Class 2, Part 1 of the Planning Regulations. I am of the opinion that the proposed revisions do not conflict with Section 14.20.18 or Objective DMSO248 of the Fingal Development Plan (FDP) by creating a source of light pollution that would result in a detrimental harm or nuisance to surrounding properties or wildlife.

7.5 Potential Visual Impact.

- 7.5.1 I am cognisant of the appeal site's and surrounding environs' physical and visual sensitivities as designated in the Howth Special Amenity Area Order (SAAO) and the FDP. I am also mindful of Point 6 of the appeal and the argument that the development would be visible from and therefore adversely affect the protected views from the Ceanchor Road and Cliff Path.
- 7.5.2 The substantial and mature roadside boundary treatments i.e. walls, fencing, gates, trees and hedgerows significantly limit views of the coastline and sea from the Ceanchor Road. The appeal site and new dwelling are not in a position to obstruct eastward or southward views of the coastline from the Cliff Path. The new dwelling and appeal site are also substantially screened from the Cliff Path by the ground level differences of 2-3m and mature boundary planting. The new dwelling is physically and visually well integrated into the site and area's rising topography and obscured by mature planting of substantial height and density. During site inspection only the upper most part of the partially constructed dwelling's flat roof was visible from a limited number of positions along the adjoining Cliff Path.
- 7.5.3 I am satisfied that the approved dwelling; which has been revised under Condition 4 of F17A/0210 and revised further under F23A/0001 including reducing the pop up cloister roof's height by 450mm and width by 300mm; will not result in a physically conspicuous or visually overpowering structure when viewed from adjoining protected views. I do not believe the overall development is likely to significantly diminish, interfere with or negatively impact these protected views or the area's special, high-quality and unique character.
- 7.5.4 I am satisfied that the extent of potential visual impacts upon the receiving environs has been comprehensively assessed in the Visual Impact Assessment submitted with the planning application in compliance with Objective GINHO56. I am also of the opinion that the appeal site's boundary planting will provide sufficient and substantial screening of the development thereby preserving the protected view from the Ceanchor Road. I note the appeal's suggestion that in lowering the site's boundary fencing the development will be more visible along the Cliff Path but am satisfied that the new dwelling is not substantially larger or more impactful than the original flat roofed dwelling and, consequently whatever view through the appeal site there may

be from the Cliff Path, it will not be materially different from what was before and therefore unlikely to detrimentally affect or harm the protected views of the SAA's coastline and cliff paths.

7.5.5 I am therefore satisfied the development will not introduce a physical discordant or visually incongruous form to the surrounding residential area that would cause visual harm, loss or denigration of the Howth SAAO's distinctive landscape character and amenity value. The proposed revisions to the approved dwelling would not conflict with the policies and objectives of the SAAO or the aims and provisions of Policies CSP22, CSP23, GINHP25, GINHP26 and Objectives GINHO55, GINHO57 GINHO58, GINHO59, DINHO60 and GINHO61 of the FDP.

7.6 Single Residential Unit.

7.6.1 I note Point 7 of the appeal regarding the proposed guest suite. Conditions 2 and 3 of F17A/0210, which would not be superseded with the granting of F23A/0001, clearly state that regardless of how the guest suite is accessed permission has been authorised for one residential unit only. Section 3(3) of the Planning & Development Act 2000 (as amended) establishes that the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use and constitutes development. I am satisfied sufficient protections are in place to address this aspect of the appeal negating any requirement for Conditions 2 and 3 of F17A/0210 to be attached to F23A/0001.

7.7 Planning Conditions.

7.7.1 Point 8 of the appeal seeks clarity on the conditions attached to F17A/0210 and F23A/0001 and how they interact in terms of which permission and associated conditions take precedence. It is clear that the approved dwelling will be constructed under both grants of planning permission and that those conditions attached to F23A/0001 which supersede an equivalent condition attached to F17A/0210 take precedence. It is unnecessary for a grant of permission under F23A/0001 to replicate all of the outstanding conditions attached to F17A/0210.

7.7.2 Point 9 of the appeal argues that Condition 3 of F23A/0001 should be amended so that anti-glare glass also be used along the dwelling's eastern elevation as this side

of the house would be visible from the Cliff Path and could, with the right angle of reflection or refraction, magnify light and create light pollution to the detriment of the Howth Head SAC. No evidence has been presented to support such an allegation and I am satisfied that the development will not utilise anything other than internal, domestic sources of light. Submitted plans do not indicate the dwelling will be externally illuminated. I am satisfied that such sources of light would not be materially different from what was previously generated by the original 'Windward' dwelling or any other dwelling on the peninsula and is therefore not likely to significantly affect the Howth Head SAC.

- 7.7.3 Point 10 of the appeal suggests Condition 5(a) is unenforceable and the associated vehicular visibility triangle be expanded by approx. 10m to include the northern and southern boundaries between 'Windward' and 'Couleen'. No argument has been presented as to why Condition 5(a) is unenforceable and the justification for seeking alteration to the visibility splay on safety grounds is vague, unconvincing and, in my opinion, insufficient to overcome the local authority assessment of this issue at application stage. The new dwelling should not generate any significantly different levels of traffic or vehicle movements than the original dwelling. In the absence of any compelling proof to the contrary I am satisfied that Condition 5(a) does not require alteration.
- 7.7.4 Point 11 of the appeal suggests Condition 6 of F23A/0001 which required a landscaping and planting schedule should be removed as Condition 6(a) of F17A/0210 already required one. In this instance Condition 6 of F23A/0001 supersedes Condition 6(a) of F17A/0210 and as the commenced works on the appeal site do not relate to landscaping I see no conflict that requires alteration of F23A/0001 in this respect.
- 7.7.5 Points 12, 13, 14, 15 and 16 of the appeal, query whether certain conditions attached to F17A/0210 and compliance to same still stand if permission is granted under F23A/0001. I am satisfied that all conditions attached to F17A/0210 remain in force and subject to compliance unless superseded by condition attached to F23A/0001.
- 7.7.6 Point 18 of the grounds of appeal argues for a new condition requiring the removal of inappropriate and invasive species, as defined under the Howth SAAO and EU

Invasive Species List, from the appeal site's boundary. The appeal cites FDP invasive species policies and concerns over mature Leylandii planted on the western boundary that overhanging the lane leading to the Appellants' dwelling. Point 19 requests a new condition requiring the removal of damaged and/or potentially dangerous trees.

7.7.7 The Howth SAAO (1999) and Invasive Species Mapping Report (2018) do not identify Leylandii trees as an invasive or undesirable species. The List of Invasive Species of Union Concern, established under Regulation (EU) 2016/1141 pursuant to Regulation (EU) No. 1143/2014 on Invasive Alien Species and updated under Commission Implementing Regulation (EU) 2017/1263, identifies 49no. floral and faunal invasive species and advises Member States on expected prevention, early detection, eradication and management measures. I find no reference in any of these documents to Leylandii trees being designated as an invasive species.

7.7.8 The Howth SAAO Design Guidelines identifies *Cuprocyparis leylandii* as a species to be avoided in the planting of new boundaries but also advocates for the conservation of existing mature trees and hedgerows as means of successfully integrating development into the receiving landscape. *Cuprocyparis leylandii* is referenced in the SAAO Design Guidelines as hedging rather than as trees and the Appellants have not established to my satisfaction that the site's boundary Leylandii trees are the same species. The emphasis of these policy and regulatory frameworks is avoiding the introduction of such species not the removal of what amounts to non-native boundary trees.

7.7.9 With context of Objectives GINHO 31 GINHO 32 and DMSO142 I am satisfied there is no policy grounds justifying the removal of the pre-existing boundary Leylandii trees as contended in the appeal. I am also satisfied that sufficient protection against the introduction of inappropriate plant species is provided through Condition 6(v) of F23A/0001 which requires a landscaping plan detailing planting choice and boundary treatment that is compliant with the Howth SAAO Design Guidelines.

7.7.10 Regarding damaged and/or potentially dangerous trees the grounds of appeal have not credibly established to any degree that these boundary trees are damaged to the point of being dangerous. Tree maintenance, in particular any branches

overhanging the adjoining access lane, is a private civil matter between parties and beyond the remit of the planning process.

7.8 Impact on Residential Amenities.

- 7.8.1 Point 16 of the appeal suggests a condition be attached requiring obscure glazing in all bathroom windows include rooflights and changing room/sauna in the south-western corner of the courtyard. Point 17 requests a condition be added requiring the guest suite's western window to be relocated and/or made opaque. The Appellants reside at 'Couleen', Canchor Road (Eircode D13 T206) which is located c.125m to the south-east of the approved dwelling. As such I am satisfied such a substantial separation distance, in conjunction with ground level differences and the extent of substantial intervening planting, is more than sufficient to protect their residential amenities from overlooking, overbearing or overshadowing.
- 7.8.2 Submitted floorplans indicate none of the proposed ensuite toilets will have external windows and proposed rooflights will be set at above eye level preventing any overlooking. The changing room/sauna and guest suite doors will be c.19m and c.28m respectively from the nearest point of the adjoining western neighbour, 'Shanet', Canchor Road (Eircode D13 AF80). Section 14.6.6.3 and Objective DMSO23 of the FDP require a minimum separation distances of 22m between directly opposing rear first floor windows to ensure privacy.
- 7.8.3 Section 14.6.6.4 states development proposals must assess levels of overbearance and the potential to cause significant levels of overlooking to neighbouring properties. As the approved dwelling is single storey and given neither the changing room/sauna nor guest suite doors are in the approved dwelling's rear elevation I am satisfied that the requirements of Section 14.5.5.3 of the FDP do not apply. The oblique angle between both 'Windward' and 'Shanet' in conjunction with existing and proposed planting/landscaping along the appeal site's western boundary should more than adequately obscure both properties preventing any loss of privacy or amenity through overlooking. The approved dwelling is positioned within the appeal site so that no overshadowing of any neighbouring dwelling will occur. Boundary planting and separation distances also ensure no material overbearing should occur. As such the Appellants' suggested revisions are not considered necessary.#

Appropriate Assessment.

- 7.8.4 The appeal argues that as no Appropriate Assessment or Natura Impact Statement was carried out in respect of F23A/0001 therefore permission should be refused.
- 7.8.5 The parent permission, F17A/0210, was submitted with a Stage 2 Appropriate Assessment (Natura Impact Statement) which concluded that potential effects could be mitigated with appropriate measures. The local authority was satisfied that given the location and nature of the proposed development there would be no adverse impacts to any European site, either alone or in combination with other plans or projects, provided certain mitigation measures were implemented. Condition 1 of F17A/0210 requires the development to be carried out in accordance with '*... the plans, particulars and specifications lodged with the application and further information...*' which includes the Natura Impact Statement's mitigation measures.
- 7.8.6 The appeal argues that the site's proximity to Howth Head SAC and the extent of potential construction related effects i.e. demolition waste, dust, noise, water run-off, the potential for chemically treated pool water, foul and soakaway discharging, glint and glare and light pollution, should have necessitated an Appropriate Assessment. Condition 3 of F23A/0001 however already requires the dwelling's southern elevational windows to incorporate anti-glare glass. Condition 4 (b), (d) and (e) already require the proposed foul and surface water drainage systems to comply with the EPA's Code of Practice for Wastewater Treatment and Disposal Systems Serving Single dwellings (2021), the Greater Dublin Regional Code of Practice for Drainage Works (2006) and the BRE Digest 365 Soakaway design standard respectively. Condition 7 of F17A/0210, not superseded by F23A/0001, also requires the submission and approval of a detailed Construction Management Plan covering, in part, dust and noise management measures and off-site disposal of construction and demolition waste. Most crucially however is that these aspects of the proposed development were part of the development approved under F17A/0210 and not what was proposed under F23A/0001. Therefore these aspects of development were already subject of the submitted Natura Impact Statement's assessment and recommended mitigation measures.
- 7.8.7 The Appellants' allegations of potential detrimental effects do not, in my opinion, rise to a suitable level of verified detail or compelling justification to refuse planning

permission. I am satisfied the development proposal does not conflict with Objectives DMSO1 and GINHO33 and Policies GINHP12, GINHP17 and GINHP18 of the FDP as contended in the appeal.

7.8.8 Having regard to the nature and scale of proposed revisions and the provisions of Condition 2 of F23A/0001 I am satisfied that the amendments to the approved dwelling and site are unlikely, either alone or in combination with any other plan or project, to significantly affect any European site comprising the Natura 2000 site network.

8.0 Recommendation.

8.1 I recommend planning permission be approved.

9.0 Reasons and Considerations.

Having regard to the appeal site's existing residential zoning, the policies and objectives of the Fingal Development Plan 2023-2029, the Howth SAAO and Howth SAAO design Guidelines it is considered that subject to compliance with the conditions set out below, the proposed revisions to the approved development accords with and would integrate appropriately with the sensitive physical and visual setting of the surrounding environs without significant or detrimental impact to the visual or residential amenities of the area. The proposed development would therefore be consistent with the proper planning and sustainable development of the area.

10.0 Conditions.

1.	<p>The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application and significant additional information received on the 3rd January 2023 and 30th June 2023 save as maybe required by the other conditions attached herein.</p> <p>Reason: To ensure that the development shall be in accordance with the permission and that effective control is maintained.</p>
----	---

2.	<p>The terms and conditions of the grant of permission made by Fingal County Council under Reg. Ref. F17A/210 and extended under Reg. Ref. F17A/0210/E1 shall be complied with in full in the course of the development herein permitted, save for the changes to plans submitted for this application.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>2.4. The proposed development incorporates anti-glare glass to the southern elevation.</p> <p>2.5. Reason: In the interest of the proper planning and sustainable development of the area.</p>
4.	<p>The developer shall comply with the following requirements of the Planning Authority;</p> <p>(a) No foul drainage shall discharge into the surface water system under any circumstances.</p> <p>(b) The foul drainage shall be in compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single dwellings (March 2021).</p> <p>(c) No surface water / rainwater shall discharge into the foul water system under any circumstances.</p> <p>(d) The surface water drainage shall be in compliance with the Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.</p> <p>(e) The soakaway shall comply with BRE Digest 365, the GDSDS, designed to accommodate the 30-year critical duration storm event from all additional impermeable surfaces, include for climate change, use local rainfall data, and be at least 5m from any structure and 3m from any boundary.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The developer shall comply with the following requirements of the Planning Authority;</p> <p>(a) No objects, structures or landscaping shall be placed or installed within the</p>

	<p>visibility triangle at the vehicular entrance exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.</p> <p>(b) All stormwater shall be disposed of to soakpits or drains within the site and shall not discharge onto the public road.</p> <p>(c) No gate shall open across a public footpath/roadway</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
6.	<p>The following requirements shall be strictly adhered to:</p> <p>(i) Prior to commencement of works, tree protection measures (protective fencing) in compliance with BS 5837: 2012, Trees in relation to Design, Demolition and Construction – Recommendations must be in place for the mature trees and hedgerow located inside the boundary along the public path to and along the Cliff Walk.</p> <p>(ii) Prior to the commencement of development, the developer shall submit for written agreement of the Planning Authority, the precise location of the protective fencing and other tree protection measures during the course of the works.</p> <p>(iii) A suitably qualified arborist shall be engaged for the duration of the development to survey tree condition and monitor site development works ensuring the proper protection of retained trees and to liaise with Fingal County Council's Parks & Green Infrastructure Division.</p> <p>(iv) A tree bond of €10,000 is to be lodged with the Council prior to the commencement of development in order to ensure that the trees and hedgerow are protected and maintained in good condition throughout the course of development. This bond will be held by Fingal County Council for a period of 3 years post construction which may be extended in the event of possible construction related defects.</p> <p>(v) A landscape plan with planting schedule indicating species, size of plants as well as boundary treatment to be submitted and agreed with the Planning Authority prior to the commencement of works on site. The planting choice and</p>

	<p>boundary treatment to be in accordance with the 'Howth SAAO Design Guidelines'.</p> <p>Reason: In the interest of visual amenity within the Howth SAAO.</p>
7.	<p>The developer shall comply in full with the following:</p> <p>a. All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.</p> <p>b. The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.</p> <p>Reason: To protect the amenities of the area.</p>
8.	<p>The following requirements shall be complied with in full;</p> <p>a. The hours of construction shall be restricted to 8.00a.m. to 7.00p.m., Monday to Friday and 8.00a.m. to 2.00p.m. on Saturdays.</p> <p>b. No construction activities shall take place on site on Sundays or Bank Holidays.</p> <p>REASON: In the interests of residential amenity.</p>

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

Tony Ewbanks
Planning Inspector

15th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317888-23			
Proposed Development Summary	Construction of 1no. dwelling.			
Development Address	'Windward', Ceanchor Road, Howth, Co. Dublin			
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		
		No X	No further action required	
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			EIA Mandatory EIAR required	
No	X	Class 10, Part 2, Schedule 5. Does not equal or exceed any relevant quantity, area or limit.	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		N/A		No EIAR or Preliminary Examination required
Yes	X	Class 10, Part 2, Schedule 5. 500no. dwellings.	A single dwelling does not exceed this limit.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____**Date:** _____