



An  
Bord  
Pleanála

## Inspector's Report

**ABP 318005-23**

### Development

Two detached two-storey dwellings, local alteration to existing boundary walls, landscaping, swale with overflow to existing stream, (SUDS), connection to existing pumping station and all assoc. site works.

### Location

The Grange, Ballyboughal, Fingal, Co. Dublin.

### Planning Authority

Fingal County Council

### Planning Authority Reg. Ref.

F23A/0374

### Applicant(s)

Naul Road Development Limited.

### Type of Application

Permission.

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Naul Road Development Limited.

### Observer(s)

None.

**Date of Site Inspection**

17<sup>th</sup> November 2023

**Inspector**

Aisling Dineen

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## Appendix 1 – Form 1: EIA Pre-Screening

## **1.0 Site Location and Description**

- 1.1. The site is an infill site, located to the south of Ballyboughal, Fingal, Co. Dublin. The site is accessed from the R108, a regional route, which extends north from Swords. There is an existing access from the R108 into the site, which serves a dwelling to the east of the site and other lands to the rear and to the west of the site. There is an agricultural access at the end of the laneway (The subject of shared access concern by the planning authority under its decision). The front boundary of the site along the access road contains a high block wall and the rear boundary contains mature hedgerow with trees. The access is currently gated.

(Access Gate on private access road was closed but unlocked at time of inspection).

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise of the following:

Construction of 2 detached two storey, four-bedroom houses and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority made a decision, on the 17<sup>th</sup> August 2023, to refuse planning permission for three reasons set out below:

1. The development, as currently proposed, would result in an intensification of use of a shared access road between residential and agricultural use and would by reason of inadequate sight lines, in particular to the south at the entrance onto the R108, result in substandard access arrangements to serve this development. Accordingly, the proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the existing pattern and density of development in the area, the edge of village location of the site, and backland nature of the site and lack of connectivity to the village, the proposed development comprising two large suburban style dwellings would constitute undesirable backland and piecemeal development which would be out of character with the prevailing pattern of development pattern of development for the village and would be contrary to Objective SPQHO42 - Development of Underutilised Infill, Corner and Backland Sites and would contravene materially Objective SPQH056 - Rural Villages as set out in the Fingal Development Plan 2023 -2029. Furthermore, the absence of pedestrian and cycle infrastructure from the subject lands linking to the village centre and given the poor availability of public transport at this location, the proposed development is largely car dependent and would promote unsustainable transport modes. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.
3. The Planning Authority considers that in the absence of a sufficiently detailed Flood Risk Assessment, the proposed development would be prejudicial to public health. Furthermore, in the absence of such detailed assessment in terms of flood risk, the Planning Authority cannot conclude that the proposed development will not cause direct or indirect impacts on any Natura 2000 sites as the stream to the south of the site has hydrological links to the Natura 2000 network.

The Chief Executive's decision reflects the planner's report.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The site has the zoning objective RV – Rural Village. The landscape category of the area is 'Low Lying Agricultural'. The site is within Airport Zone D.
- Under the current settlement strategy Ballyboghil is scheduled for a masterplan over the plan period.

- Extensive planning history for the subject site/landholding in the ownership of the applicant is listed.
- 'Residential' use class in 'Permitted in Principle' under the zoning RV.
- Development would be permissible if the planning authority is satisfied that the proposal would be compatible with overall policies and objectives for this zone. The planning authority has concerns with respect to a number of elements of the proposal.
- The proposal reflects infill/backland development and as such Policies HCA 038 Infill Development and SPQH 039 New Infill Development, and SPQH042 Development of Underutilised Infill, Corner and Backland sites, are applicable.
- The proposed design is considered to be suburban in nature and is not reflective of rural dwellings on the edge of a rural village. The proposal is not considered to be proportionate to the pattern and grain of development on the adjoining lands.
- The proposal is largely car dependent and would promote unsustainable transport modes.
- As there is an existing gate on the access road the proposal would not comply with Objective DMSO30, which prohibits the creation of gated communities for new residential developments.
- Layout, landscaping and residential amenity are generally satisfactory. However rear first floor balconies should be omitted in the interest of residential amenity.
- The Transport Section considers parking to be acceptable. However, this section does not support the shared access road and the required sight distances to the south of the entrance onto the R108 are not achieved. The planning authority notes the recent decision of An Bord Pleanála to grant 1 No dwelling house on the site, using the same entrance point, but the planning officer supports the report of the Transport Section.
- Water Services has no objection to the proposed development however it has recommended that the applicant be requested to submit a Stage 1 FRA –

Flood Risk Assessment to take account of flows in the stream and proposed finished floor levels relative to the water course. Should a decision be made to grant relevant conditions could be attached.

- Relating to Part V the applicant should be requested to apply for a Section 97 Exemption.
- There is no Appropriate Assessment Screening Report submitted. The stream on the southern boundary of the site appears to join the Daws River, which flows into Rogerstown Natura 2000 site. Regarding the flooding issues raised by the Water Services Section, the impact of the proposed development on the Natura 2000 site cannot be ruled out.

### 3.2.2. Other Technical Reports

#### Transportation Planning Section

The proposed sightline drawing is as permitted under F22A/0239, however the proposed development is considered to be intensification in its current format. Due to intensification the proposed vehicular entrance would be considered a traffic hazard.

ABP permitted intensification under F22A/0403 without any requirement to improve sightlines to the required 70 metres.

The Transport Planning Section does not support a shared access between residential and agricultural use.

There is no proposal to incorporate pedestrian connectivity between the existing footpath on the access lane and the existing footpath along the R108, c. 150 metres north of the proposed development.

Notwithstanding reservations, additional information is requested.

#### Parks & Green Infrastructure Division

No objection subject to conditions.

#### Water Services Division

No objection subject to conditions.

#### Housing Department

An application for exemption from Part V to be submitted.

### **3.3. Prescribed Bodies**

Uisce Éireann: No objection subject to conditions.

Dublin Airport Authority (daa): No objection to proposal.

Inland Fisheries Ireland. No objections subject to conditions.

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

### **4.1. Subject Site**

ABP 314914 22 (Planning Register Reference F22A/0403) Planning permission was granted by An Bord Pleanála, for the development of 1 No house and associated site works, subject to 10 No conditions.

F22A/0239 Permission granted for alterations to the site entrance and piers to allow for increase sightlines, the relocation of the ESB pole and other associated development, from the shared entrance into the site from the R108.

F22A/0071 Permission refused for an infill development at the site for 3 no detached two-bedroom dwellings having regard to: 1. Inadequate sightlines 2. Impact on the rural village and absence of pedestrian/cycle infrastructure. 3. Inadequate Flood Risk Assessment.

F17A/0156 Permission refused for a dormer bungalow and ancillary works for having regard to: 1. Inadequate sightlines.

PL06F.228520 (F08A/0035) Permission refused for a dormer bungalow and associated works having regard to: 1. The impact on the character of the rural village and the need to serve local needs in accordance with approved action area plans.



## 5.0 Policy Context

### 5.1. Development Plan

#### **Fingal County Development Plan 2023-2029**

The site is located on lands zoned as RV, Rural Village, where it is an objective to “Protect and promote in a balanced way, the development of agriculture and rural related enterprise, biodiversity, the rural landscape, and the built and cultural heritage”.

#### Ballyboghil Rural Village

Section 3.5.15.1: Rural Villages. The rural settlement strategy supports the growth of rural villages in line with the growth levels set out under the Housing Strategy.

#### **Objective SPQHO56 – Rural Villages**

Facilitate appropriate development within Rural Villages subject to compliance with the following:

- i. The scale of new residential development shall be in proportion to the pattern and grain of the existing settlement and shall be located within the defined development boundary.
- ii. Encourage and promote compact growth within Rural Villages including infill, brownfield development together with redevelopment of derelict/underutilised properties.
- iii. All development shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness for the settlement.
- iv. New commercial development should be centrally located within the village and contribute positively to the streetscape and public realm.
- v. Encourage new community and social facilities in conjunction with residential development.

**Objective SPQH042 - Development of Underutilised Infill, Corner and Backland Sites.**

Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

### **Objective DMSO30 – Gated Communities**

Prohibit proposals that would create a gated community for any new residential developments.

### **Masterplan**

Table 2.1: Schedule of Masterplans to be commenced over the plan period.

- Ballyboghil (MP 3.B)

### **Policy CSP7 – Masterplans**

Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.

## **5.2. Natural Heritage Designations**

The site is located c. 5.2 km to the west of the Rogerstown Estuary SAC (Site code 000208) and Rogerstown Estuary SPA (Site code 004015).

## **5.3. EIA Screening**

The proposed development includes the construction of two dwellings on an infill site within a rural village.

The site is surrounded by similar types of dwellings and there is an access road into the site.

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Scant regard was given to the recent grant of planning permission for one dwelling house, on the site, by An Bord Pleanála (PL 06F. 314914). Each of the reasons for refusal were addressed comprehensively by the Boards Senior Inspector and were resolved. The key planning consideration is whether an additional residential dwelling on this site is appropriate and in accordance with the proper planning and sustainable development of the area or not.
- The site is located within an established built-up area within a designated settlement in proximity to existing services and is entirely in accordance with national and local planning policy/objectives.

The response to the reasons for refusal are summarised below:

#### **6.2. Reason for Refusal No 1**

- The access, which is overgrown is no longer used for agricultural purposes and has not been in use for agricultural purposes for an extended time period.
- The entrance is not practical for agricultural machinery which is why an access to the north is used. Other access is indicated on map provided.
- The Board took no issue with this in the previous proposal for a single dwelling, yet the planning authority have again sought to refuse permission on this basis.
- The reason for refusal cites inadequate sight lines but the board definitively determined this not to be an issue under the previous application.
- The site is within the 50 KPH zone associated with the village.
- The Planning Authority Transportation report under F22A/0239 quoted DMURS, which requires sight lines of 45 metres either side of the entrance, therefore the sightlines provided are in excess of the standards of 50 KPH zones.

- The proposal meets the additional 70 metres sightlines as required by the Transportation Report owing to perceived ambient speeds.
- The Board inspector previously assessed this issue in great detail and considered that subject to compliance with F22A/0239, that the sightlines necessary to comply with DMURs could be satisfied.
- The applicant is in the process of organising the works for the revised site entrance. The applicant is happy to accept a condition requiring compliance with F22A/0239.
- It is submitted that this proposal is for an additional residential unit to the one already permitted and this will not lead to any significant intensification to suggest that the proposal would give rise to an undue traffic hazard.

### 6.3. Reason for Refusal No 2

- This reason for refusal mirrors the previous reason by the planning authority. The applicant successfully argued to the satisfaction of the Board that the proposal did not constitute piecemeal development and was not out of character with the pattern of development in the area (Board report is quoted).
- The existing pattern and density of development in the area varies dramatically in terms of layout, location, siting and design of houses.
- The proposal is for infill development and cannot be described as piecemeal.
- The site is within the development boundary for the village and there is no policy which advises against the development of same. The assumption that as it is not within the Ballyboghil Village Development Framework so it should not be developed, is baseless and flawed.
- The rationale citing lack of public transport is not a reasonable or justifiable basis for refusing permission. All properties within a rural village will be car dependent in the absence of public transport. This is not a city location where such options are readily available. This also applies to pedestrian and cycle infrastructure.

#### 6.4. Reason for Refusal No 3

- This reason is essentially the same as that put forward previously by the planning authority and the board found it to be without foundation.
- The site is not within a flood risk zone. There are no recorded flood events at or near the site. The risk of flooding must be found to be low.
- A Flood Risk Assessment is submitted to the Board, under which a minor change to the site layout is proposed. The flood risk assessment demonstrates that no flood risk issues arise.
- The applicants are happy to accept any condition regarding floor levels to be set over any perceived floor risk area adjoining.
- The Board agreed with these conclusions under the previous application and found that '*no evidence has been submitted that there has been any flooding at this location*'.
- Regarding AA screening this matter has been addressed previously. The site is 5.1 km to the east of Rogerstown Estuary SAC. The proposed development is not likely to have a detrimental effect on Annex 1 habitats or Annex II species associated with European Sites.

#### 6.5. Applicant Response

- The applicant is the appellant.

#### 6.6. Planning Authority Response

- Having examined the appeal, the planning authority has no further comments to make.
- The Board is requested to uphold the decision of the planning authority.
- In the event that the appeal is successful provision should be made for applying a financial contribution in accordance with the Councils Section 48 Development Contribution Scheme.

## **6.7. Observations**

None.

## **6.8. Further Responses**

None.

## **7.0 Assessment**

7.1. The grounds of appeal have submitted additional information in the form of a marginally revised surface water drainage plan. Having regard to this additional information and the information on file I consider the main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Design/Layout
- Access
- Flooding
- Other
- Appropriate Assessment.

### **7.2. Principle of Development**

7.2.1. The subject appeal relates to a proposed development of 2 No. dwelling houses on a site, upon which planning permission was granted for one dwelling house, relatively recently, under planning reference number ABP 314914-22 (LA F22A/0403). The current application roughly splits the site of the previous application in two.

7.2.2. The second reason for refusal, which relates to the principle of development, mirrors a refusal reason under the previous application and refers to stated piecemeal development and backland nature of the site, which it was stated would be out of character with the prevailing pattern of development and would be contrary to Objective SPQH042 and contravene materially Objective SPQH056.

- 7.2.3. The agent for the applicant argues that all of the issues raised under this application and under the planning authority's refusal reasons have been comprehensively addressed under the previous appeal and as such the key planning consideration is whether an additional residential dwelling on this site is appropriate and in accordance with the proper planning and sustainable development of the area or not.
- 7.2.4. I would concur that the planning authority has broadly repeated its refusal reasons, albeit under the current development plan, under the instant decision to refuse permission. It is considered that given the established grant of planning permission for one dwelling house on the subject site, that the substantive issue under the current appeal relates to the impacts of the proposed additional dwelling house and the planning assessment and implications of an additional dwelling house at this location.
- 7.2.5. I concur with the previous inspector's assessment that the site is an infill/backland site, located on the edge of a small rural town, Ballyboughal in Fingal. The site is located within the defined settlement boundary of the Ballyboughal and is accessed from an existing entrance, which provides access to a separate dwelling and other buildings to the rear, west of the site. The site in question is well screened to the rear with the established mature vegetation and also along the south boundary of the site and access lane.
- 7.2.6. It is noted that the planning authority has referred to two objectives, inter alia, under the second reason for refusal; SPQHO42 and Objective SPQH056.
- 7.2.7. SPQH042 aims to promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected. It is considered that the proposed development, within the development boundary of the village, complies with this objective. Having thoroughly reviewed the established settlement pattern in the area and within the general settlement boundary of the village, it is apparent that there are various forms/patterns of development within the delineated village boundary. It is also noted that the site is at an edge of village location and is particularly well screened. Accordingly, it is not considered that the proposed development would detract from the character of the village.

7.2.8. Regarding Objective SPQH056, it is considered that the development of 2 No houses at this location would be in proportion to the pattern and grain of the existing settlement and shall be located within the defined development boundary on an underutilised property. The previous inspectors report noted large houses already established in the area, which I concur with. In terms of pattern of development, I also note a variation of patterns of groupings of houses already established within the development boundary of the village and also proximate to this site, one such grouping is situated c.160 metres north of the subject site. Accordingly, the pattern and grain of development within the development boundary is quite varied. The site is very well screened with established mature vegetation and could be described as secluded. It is not considered that the development of 2 No dwelling houses at this location would detract from the 'existing village character' or detract from 'a sense of identity and distinctiveness for the settlement of Ballyboughil'. Therefore, I do not consider that the proposed development would materially contravene Objective SPQH056 of the plan.

7.2.9. The second refusal reason also refers to the absence of any pedestrian/cycle connectivity into the village centre and poor availability of public transport at this location. Traffic/Access issues will be considered under Section 7.4 below. It is not considered that this issue would detract from the principle of development.

7.2.10. Therefore, having regard to the location of the site within a rural village, the policies, and objectives of the Fingal County Development Plan, in particular Policy Objective SPQH056 which direct development into rural villages, and SPQH042, which promotes the development of underutilised/infill sites and having regard to the characteristics of the surrounding area, I do not consider the proposal would represent an undesirable development at this location. It is my opinion that the proposal can be defined as an underutilised/infill site, and I do not consider the proposal should be refused for reasons relating to the principle of development.

### 7.3. Design/Layout

7.3.1. The site is served by an existing access road, with a 1.2 metres wide footpath. The proposed dwellings are to be accessed from the north side of the access lane. There is an existing stream on the opposite side of the access road.



7.3.2. The proposal complies with Section 14.8 of the Fingal Development Plan. The areas of private open space for both dwellings are satisfactory and are compliant with Objective DMSO27 of the plan. The proposal is also compliant with DMSO26 regarding separation distances between side walls of units.

7.3.3. There are no first-floor windows on east boundary of the property adjunct to the established dwelling to the east, which precludes overlooking/impacts on residential amenity of this property. There are other nearby properties in close proximity to the north and northwest of the site. The planning authority has recommended that the rear first floor balconies be omitted, in the event of a grant of permission. I would concur with this recommendation in the interest of privacy and residential amenity of the adjoining properties, notwithstanding the screened nature of the north boundary, should the board be mindful of a favourable decision.

#### 7.4. Access

7.4.1. Under the first reason for refusal the planning authority cites substandard access arrangements regarding the intensification of use. The refusal reason also cited the issue of the stated shared access road between residential and agricultural use in conjunction with inadequate sight lines, in particular to the south at the entrance onto the R108.

7.4.2. The agent for the appellant submits to the appeal that the issue of access has been comprehensively addressed by the previous planning assessment under ABP 314914 – 22, which pertained to the development of one house on the subject site. I would be of the viewpoint that the assessment under the previous appeal is relevant and that the addition of an additional house and the intensification concerned requires evaluation.

7.4.3. The Board decided under this appeal to grant planning permission subject to conditions. Condition No 3 of this decision stated the following:

Condition No 3, ABP 314914 - 22

*The proposed development shall comply with the terms and conditions of Fingal County Council Planning Reference Number F22A/0239.*

*Reason: In the interest of clarity.*

- 7.4.4. As detailed above under para 4.1, F22A/0239 pertains to a grant of planning permission at the access road for the following: Alterations to the site entrance and piers to allow for increase sightlines, the relocation of the ESB pole and other associated development, from the shared entrance into the site from the R108. For clarity, this grant of planning permission pertains to the same access with the R108 as that of the subject appeal.
- 7.4.5. It was noted on the date of inspection that no works on the access had been undertaken or commenced pursuant to this grant of permission. However, it is noted that this decision is yet live.
- 7.4.6. Under the previous appeal and under the current application, the Planning Transportation Section have stated that this application (F22A/0239) was considered as an upgrade to a junction and was not considered as part of an intensification of use application.
- 7.4.7. The planning authority is of the viewpoint that the site, although located within a 50 KPH zone should comply with the sightline standards relating to an access onto a 70km/hr road, due to the nature of the R108 and the location of the site on the edge of the village and the ambient speeds of traffic at this location.
- 7.4.8. The agent for the appellant argues that the site is within the 50 KPH zone associated with the village. It is also stated that under the previous application (F22A/0239) that the Planning Authority Transportation report quoted DMURS, which requires sight lines of 45 metres either side of the entrance. The appeal argues that the sightlines provided are in excess of the standard for 50 KPH zones. In fact, it is submitted that 70 metres sight lines are achievable in accordance with the perceived ambient speeds of this section of road.
- 7.4.9. I note the site layout submitted with the application and the supporting illustrations within the grounds of appeal refer that, subject to compliance with permission Reg Ref F22A/0239, the required sightlines necessary to comply with DMURS can be achieved. It is also considered that sight distances in excess of DMURS requirements are achieved and given the edge of village location and the modification of the access point with the R108 pursuant to F22A/0239, I am satisfied that proposal can meet the required sightlines.

- 7.4.10. Regarding the subject of intensification of use with respect to the additional house proposed over that permitted under ABP 314914 – 22, I am of the viewpoint that the site is within the delineated development boundary of a rural village. I consider that the development of 2 No houses at this location to be acceptable subject to works being carried out, pursuant to F22A/0239, prior to the commencement of any works on site. Therefore, I concur with Condition Number 3 as imposed under the said previous decision on site, but I would wish to add that this permission be implemented in full prior to the commencement of works on site, in the interest of traffic safety, and I consider that this could be addressed by condition of permission.
- 7.4.11. Under the submissions to the appeal, the agent for the appellant has submitted that the agricultural entrance is no longer in use, it is in fact overgrown, and that an alternative more accessible access point is used to gain entrance to the agricultural lands concerned. Maps are submitted which indicate the location of the alternative access, which serve the agricultural lands. I accept the submission by the agent for the appellant and I consider that given the concerns of the planning authority, regarding the shared use access along with the submission that the agricultural access is no longer in use at this location, that it would be appropriate to condition that this agricultural access be permanently decommissioned/closed up, if the Board is mindful of a favourable decision. This should allay some of the concerns of the planning authority with regard to the shared use access situation.
- 7.4.12. The first reason for refusal also cites the absence of pedestrian and cycle infrastructure from the subject lands linking to the village centre and this reason also refers to poor availability of public transport at this location. This issue was also cited under the previous appeal on the site. I note and concur with the planning inspector's previous assessment of this issue whereby the previous report stated:
- 'There are no policy or objectives requiring the delivery of a footpath up to the site. It is my opinion that the requirement for the applicant to provide a footpath for one dwelling is excessive and I do not consider the proposal would have a significant negative impact on the movement of traffic or pedestrians along the R108'.*
- 7.4.13. I am of the viewpoint that a requirement to provide a footpath/cycle infrastructure for c.200 metres to converge with the established footpath on the south side of Ballyboughal village, would be excessive and while the issue of pedestrian and cycle

infrastructure is an important one, I do not consider the proposal should be refused for reasons relating to this issue, in particular in the absence of any specific objective for such in the development plan.

- 7.4.14. Having regard to the permitted upgrade of the entrance under Reg Ref F22A/0239, the nature and scale of the proposed development and the location within a village, I consider the design of the entrance/access complies with the required standards.

## 7.5. Flooding

- 7.5.1. The third reason for refusal relates to the inadequacy of the Flood Risk Assessment (FRA) to address the impact on an existing stream to the south of the site and the potential impact on any Natura 2000 site (due to potential hydrological links).
- 7.5.2. A Site-Specific Flood Risk Assessment (SSFRA) has been submitted under the current appeal. It is noted that a SSFRA was also submitted under the previous appeal and was comprehensively evaluated by the inspector under the previous report.
- 7.5.3. The SSFRA designates the site as being within Flood Zone C, where the probability of flooding from rivers and sea is low, i.e., less than 0.1 % or 1 in 1000 for both river and coastal flooding. The site is 900 metres away from Flood Zones A and B in the village of Ballyboughal. As part of the SSFRA, the Barnastown Stream which runs along the south of the site was measured and an Open Channel Flow Calculation, which determines flow rates for culverts, was carried out. The results show that the stream has capacity to cater for the surrounding lands and is not in danger of overflowing and flooding the subject site. Additionally, available records indicate that there is no history of flooding on the subject lands.
- 7.5.4. I note that there is no evidence of flooding of the subject lands submitted under the instant appeal or under the previous appeal.
- 7.5.5. Details submitted with the grounds of appeal indicate that the drainage layout is marginally different to that submitted under the planning application. The location and sizes of the proposed swales are marginally modified reducing the permeable paving area and increasing the green landscaped areas, in both sites. I consider this to be a minor modification. The site layout illustrates the surface water drainage

system and location for the proposed swales. Wastewater will connect into the public system/pumping station.

7.5.6. I am of the viewpoint that the site can be adequately serviced to treat the surface water within the site. I also note the site is separated from the stream by the existing internal access road and no evidence has been submitted to indicate that there has been any flooding at this location. Accordingly, it is considered that the information submitted within the grounds of appeal is sufficient to address any concerns in relation to flood risk in the vicinity of the site.

7.5.7. I have addressed the impact on any European sites below in Section 7.7.

7.6. Other

7.6.1. The report of the area planner refers to the location of the gates, which restricts access into the site. Objective DMSO30 of the development plan restricts the use of gated communities. As the land delineated in blue on the site location map indicates that the applicant has control over all the lands, I consider it reasonable that a condition on any grant of permission requires the removal of the gates.

7.6.2. The front boundary walls as submitted under this application are compliant with the Planning and Development Regulations (2001) as amended, for wall height forward of front building lines of dwellings. Therefore, condition number 1, is sufficient in the instant appeal.

7.7. Appropriate Assessment.

7.7.1. The third reason for refusal relates to the potential impact on flooding. Reference is made to the stream along the south of the site and the hydrological connection to a European Site. The closest European Site is located c. 5.2km to the east of the site (Rogerstown Estuary SPA/SAC) and is separated from the site by the M1. The stream that runs along the south of the site (Belinstown) flows east into the Daws River and eventually into the Rogerstown Estuary.

7.7.2. As stated above all, I consider the surface water can be treated within the site and the SSFRA concludes no flood risk from the site. The subject site is separated from the stream along the south and having regard to the servicing of the site there will be no impact on the stream.

- 7.7.3. Having regard to the location, scale, and nature of the proposed development it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend a GRANT of permission for the reasons and considerations and subject to the conditions listed below.

## 9.0 Reasons and Considerations

Having regard to:

- (a) The location of the site within the development boundary for Ballyboughal Village,
- (b) The policies and objectives of the Fingal County Development Plan 2023- 2029 in relation to rural villages and the land use zoning as RV, Rural Village,
- (c) The nature, location and extent of the proposed development and the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of the Fingal County Development Plan and with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority and amended by those drawings submitted to An Bord Pleanála on the 12 <sup>th</sup> September 2023, the developer shall agree such details in writing with the planning authority prior to commencement of development
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	<p>and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The gates along the access road shall be moved to a location which does not prevent access into the subject site.</p> <p>(b) The agricultural access at the west of the site shall be decommissioned/closed up.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the Interest of residential amenity.</p>
3.	<p>(a) The proposed development shall comply with the terms and conditions of Planning Reference F22A/0239, save where amended by the terms and conditions herein.</p> <p>(b) Access works at the junction with the R108 permitted under F22A/0239 shall be completed in full prior to the commencement of any works on site and upon completion shall be agreed in writing by the planning authority.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
4.	<p>The first-floor balconies on the north elevations of both dwellings shall be omitted and revised drawings showing compliance with this requirement shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This</p>

	<p>scheme shall include the species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species].</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction traffic management and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health</p>
8.	<p>The applicant or developer shall enter into water wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p>



	<p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
11.	<p>The developer shall comply with the requirements of the planning authority pertaining to Section 97, Part V of the Planning and Development Act 2000 (as amended), and same shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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

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Aisling Dineen  
Planning Inspector  
19 January 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	318005 - 23			
<b>Proposed Development Summary</b>	2 no Two Storey, Four Bedroom houses and associated site works.			
<b>Development Address</b>	The Grange, Ballyboughal, Fingal, Co. Dublin.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>		
		<b>No</b>	No further action required	
<b>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?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>			Proceed to Q.3	
<b>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]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		<b>N/A</b>		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector: Aisling Dineen****Date: 19<sup>th</sup> January 2024**