



An
Bord
Pleanála

Inspector's Report

ABP-319423-24

Development

The development will consist of modifications to the plans previously granted permission under reg. ref. F19A/0405 (ABP-307006-20).

Development includes addition of a third floor containing 1 apartment along with minor extension to the second floor to accommodate 2 apartments. The application is accompanied by a Natura Impact Statement.

Location

Osprey, Kilrock Road, Howth, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0015

Applicant(s)

Emmet McLoughlin

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant(s) Emmet McLoughlin

Observer(s) None

Date of Site Inspection 4th April 2025

Inspector Emer Doyle

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1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Balscadden Road and Kilrock Road, on the eastern side of Howth village, approximately 400m southeast of Howth Harbour. Balscadden Road provides a one-way east bound connection from the seafront / harbour area to the Cliff Path car park, and is a cul de-sac east of this junction. Kilrock Road rises to the south along the frontage of the site and is provided with double yellow lines on both sides and a footpath along its western side.
- 1.2. The site has a stated area of 0.16ha and is occupied by a three-storey detached dwelling (two storey over basement) located close to the southern site boundary. Ground levels on the site fall significantly from the southeastern corner west and northwest. Levels across much of the site are below the level of adjoining roads. The site is traversed south-north on its western side by a surface water drain / culverted stream, which discharges to an open surface water sump / chamber in the northwestern corner of the site. The drain then enters a culvert under Balscadden Road before discharging to the sea to the north.
- 1.3. Housing on the western side of Kilrock Road comprises dormer and two-storey houses. To the south of the site, there is a vacant plot which was the subject of an extant permission for residential development. Asgard Park comprises a mature development of detached houses situated above an overgrown embankment bounding the site on its western side.
- 1.4. The property to the northwest of the site, on the seaward side of Balscadden Road is a protected structure (No. 936) Ben Eadair.

2.0 Proposed Development

- 2.1. The proposed development comprises of modifications to the plans previously granted permission under ABP 307006-20.
- 2.2. The modifications include the following:
 - The inclusion of an additional 4 bedroom apartment at third floor level. The stated floor area is 240m².

- Minor modifications to include a rear and side extension to the second floor to accommodate 1 No. 2 bedroom and 1 No. 3 bedroom apartment.
- Extension of permitted basement to 140m² to accommodate storage and bicycle parking for residents.
- Amendments to circulation areas to include changes to the eastern circulation area to serve the ground and first floor apartment units only. The western circulation area will serve the second and third floors. At ground floor level there will be a new rear access to the ground floor unit to provide access to the amenity space to the rear.
- Two additional car parking spaces at surface level.
- Associated site, landscaping and engineering works to facilitate development.

2.3. The proposed development would result in a four storey over basement level apartment block in lieu of the permitted three storey above basement block with an increased height of c. 2.9m.

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

2.5. Table 1: Site/ Development Details

Site Area	0.16ha	
Existing Dwelling	FFL	24.39
	Ridge Level	35.29
	Height	10.9m
	Permitted	Proposed
Gross Floor Area	1120m ²	1414m ²
No. of Units	8	9
Density	50 units/ ha	56 units/ ha
Ground Floor Level	24.7m OD	24.7m OD

Height	9.5m	12.4m
Parking Spaces	8	10

2.6. Table 2 below provides a schedule of individual units proposed/ amended under this application:

Unit	Location	Floor Area m²	Private Open Space m²	No. of Bedrooms
Apt 7	Second Floor	94	16	2
Apt 8	Second Floor	196	78	2
Apt 9	Third Floor	240	144	3/4

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission for 4 No. reasons primarily relating to visual impact in a highly sensitive area of exceptional landscape value. In addition, it was considered that the additional floor and height proposed would lead to a poor precedent and would be out of character and be overbearing and result in overlooking of other residential properties.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The case planner considered that the proposed application is a repeat application with previous refusals on the site. It is stated that *‘The previously refused application and the current application are the same with the exception of a reduction in floor area of 36.5m² and minor alterations which are considered tokenistic and fail to satisfactorily address the reasons behind*

the refusal by both FCC and An Bord Pleanála, given that a fourth floor is still proposed and the overall scale, bulk and height has not significantly changed.'

- It was considered that the visual impact assessment submitted as part of the application is misleading and inadequate given the previously submitted VIA for F21A/0530 which clearly illustrates the impact of the proposed development.
- With regard to the provision of an additional floor, it is considered that the proposal fails to adequately overcome the previous reasons for refusal given minimal changes to the proposed development.
- The previously permitted scheme provided for a separation distance of 10.8m from the side elevation of the nearest dwelling which was permitted on the adjacent site. The amended scheme provides for a reduced separation distance of c. 8.8m to the permitted dwelling, this together with the proposed increase in height will give rise to significant levels of overbearance upon the permitted dwellings to the south.
- Refusal recommended.

3.2.2. Other Technical Reports

- **Water Services:** No objection subject to conditions.
- **Transport:** No objection subject to conditions.
- **Parks and Infrastructure:** No objection subject to conditions. Contribution in lieu of public open space.
- **Ecologist:** Seeks additional information in relation to in combination assessment given that a complex of 180 apartments is currently under construction less than 300m east of this proposal.

3.3. Prescribed Bodies

- **Irish Water** - No objection.

3.4. Third Party Observations

3.4.1. The Planning Authority received a number of observations which can be summarised as follows:

- The fourth storey proposed increases the visual impact of the building from all sides, adversely impacts protected views, is an incongruous and obtrusive feature on this highly sensitive and scenic coastal landscape.
- Half a million visitors walk on the pavement past this site every year.
- This is an extremely sensitive site. The proposed apartments are located overlooking the sea on a road that is one of the major access routes to the much-used cliff path and the open areas of the hill of Howth.
- The proposed scheme is largely similar to that previously refused.
- Concern regarding impact on residential amenities having regard to the increase scale, height, bulk and overlooking.
- The large penthouse is at risk of being turned into smaller properties at a later date.
- The LVIA submitted claims to use the same visual receptors as the refused application. However, they are clearly not from the same locations and cannot be accepted as accurate representations.

4.0 Planning History

4.1. *Appeal Site*

PA Reg. Ref. F03A/0235

Permission refused for 2 no. semi-detached houses to the front of the existing dwelling on the site on the basis of impacts on the visual amenities of the area, overlooking of the adjoining house, deficiencies in residential amenity and lack of adequate drainage information.

PA Reg. Ref. F21A/0530/ ABP Ref. 312281-21

Permission refused by PA and ABP for amendments to a previously permitted scheme (ABP Reg. Ref. 307006-20) for modifications to include an additional apartment at third floor level, changes to previously permitted second floor layout to include 1 No. 2 bed apartment and 1 No. 3 bedroom apartment in lieu or 2 No. 2 bed units previously permitted, amendments to basement and circulation areas, 1 No. additional car parking space at surface level.

PA Reg. Ref. F19A/0405/ ABP Ref. 307006-20

Permission granted for demolition of existing 3 storey dwelling and construction of 3 storey over basement apartment consisting of 8 No. 2 bedroom apartments.

4.2. *Adjoining lands to the south*

PA Reg. Ref. F14A/0482

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

PA Reg. Ref. F14A/0482/E1

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

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework

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

National Policy Objective 35

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

5.1.2. Relevant Section 28 Guidelines

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023)
- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, (2024)

5.2. Development Plan

The relevant development plan is the Fingal Development Plan 2023-2029. I note that the history applications on the site were assessed under the Fingal Development Plan 2017-2023.

Site is located within land-use zoning objective 'RS' Residential with the objective to 'provide for residential development and to protect and improve residential amenity.'

The following policies and objectives have been considered in assessing the proposed development:

Objective SPQHO42: 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.

Policy CSP 22: Howth, Sutton, Baldoyle- Consolidate the development and protect the unique identity of Howth, Sutton and Baldoyle. This includes protection against overdevelopment.

Policy CSP 23: 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.

Objective GI 14: Ensure that future developments within the area have regard to the principles for development in coastal and estuarine character areas as set out in the Landscape Character Assessment of the Fingal Development Plan.

Objective GI 15: Incorporate principal views of the surrounding area, in particular, Baldoyle Bay, Howth Head, Ireland's Eye and Lambay Island into future development schemes.

Objective GI 16: Protect the following views:

Views from the eastern half of the area towards Baldoyle Bay, Howth Head, Ireland's Eye and Lambay Island.

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.

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.

The site is within a Coastal Landscape Character Area that is categorised by the development plan as having exceptional landscape value.

There is an objective along Balcadden Road and Kilrock Road within the Fingal Development Plan to protect views. The site is located within a 'Highly Sensitive

Landscape' on Sheet No. 14 'Green Infrastructure 1' and within the Howth SAA (Special Amenity Area) Buffer Zone of the Fingal Development Plan 2023-2029.

5.3. Natural Heritage Designations

- 5.3.1. I note that there has been a new European Site designation, namely North-west Irish Sea cSPA (Site Code 004236) since the previous applications on the site.
- 5.3.2. The appeal site is not designated for any nature conservation purposes. The coast at Balcadden Bay immediately north of the appeal site, comprises part of Howth Head SAC (000202) and Howth Head pNHA. Howth Head Coast SPA (004113) extends around the coastline to within approx. 300m west / northwest of the appeal site. Other sites in the wider area include Baldoyle Bay SAC (000199), Rockabill to Dalkey Island SAC (003000) and Irelands Eye SPA (004117) and SAC (002193).
- 5.3.3. Please refer to Section 8.0 and Appendix 3 for Appropriate Assessment Screening.

5.4. EIA Screening

- 5.4.1. Refer to Form 1 in Appendix 1. Class 10 (b) (i) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.
- 5.4.2. Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.
- 5.4.3. The application is accompanied by an NIS. I am satisfied that due to the limited extent of development (one additional unit over that previously permitted), no EIA is required as no significant environmental effects arise that cannot be easily mitigated by standard mitigation measures.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The main grounds of the first party appeal can be summarised as follows:

- The current appeal is materially different to the application previously refused by the Board.
- A more comprehensive landscape visual assessment was submitted with the application. This assessment shows that the site cannot be seen from the majority of 'sensitive locations', and does not detract from the views of the most important visual components.
- It is not disputed that within the immediate surrounds of the site, the permitted/ proposed development will undoubtedly be highly visible. However, it is argued that the addition of a setback penthouse, on top of the permitted development is not materially more visible than the permitted development and does not alter the character of the site to any greater extent than the development already permitted.
- The Board is requested to have regard to the importance of the wider context views which show that the proposed development does not detract from any protected view of the coast, beaches, harbour or Howth SAAO, or the historic core of Howth village itself.
- The site is not considered to be visually sensitive, as if it were so considered it would be zoned High Amenity.
- The subject site is not on the seaward side and is within an existing developed area.
- The proposal is a penthouse on top of an already granted permission. The LVIA submitted with the application is concerned with the penthouse. The fourth storey would increase the height but would not increase the bulk or mass of the proposed building. These changes, and reversion back to a similar bulk/ mass and building line to the permitted ensures that the preserved views are not adversely affected.

- Critical views are protected and not adversely impacted upon.
- The amended design offers a finial which breaks the mass of the building with the sky.
- The third floor and penthouse of the amended design are pulled back from the edge of Kilrock Road, and less intrusive in the protected view of Irelands Eye.
- A stepped back piece or cap is required for the building to make it sit better against the skyline.
- The character of this residential area, when considered in the context of the permitted development is not materially altered. Therefore, the proposed development would not materially contravene the RS zoning for the site and Objective SPQH042.
- It is incorrect to suggest that the design is ad hoc or out of character, when it is merely a penthouse on top of a permitted apartment development of identical architectural language.
- The assertion that the proposed development would set an undesirable precedent, that would cumulatively contribute to the erosion of the distinct and attractive character of the area is incorrect. The Board has previously assessed the potential impact on the visual and residential amenity and has found that there has been no such adverse impact as would warrant a refusal as permitted was previously granted for an apartment development at this location. New and updated CGIs focus on critical views that are protected to ensure that the proposed additional floor does not impact on any such view.
- There has been a new European Site designation, namely North-west Irish Sea cSPA (Site Code 004236) as well as updates to the guidance available since the previous applications. A detailed AA Screening Report and Natura Impact Statement have been submitted in this regard.

6.2. Planning Authority Response

The Planning Authority response can be summarised as follows:

- The Planning Authority remains of the opinion that if permitted the proposed development would negatively impact upon the protected views within the vicinity of the subject site and would be seriously injurious to the visual amenities and established character of the area. Furthermore, it is considered that the proposal would be significantly overbearing upon the residential amenities of the surrounding area.
- The proposal as presented would adversely affect the visual amenities of the area and sense of place in a coastal landscape character area categorised by the Development Plan as having exceptional landscape value within the buffer zone of the Howth SAAO, would set an undesirable precedent, is contrary to Objective SPQHO42 and Objectives GINH057, GINH058 & GINH059 of the Fingal Development Plan 2023-2029.
- An Bord Pleanála is requested to uphold the decision of the Planning Authority.
- In the event that the appeal is successful, provision should be made in determination for applying a financial contribution and/or Bond in accordance with Fingal County Council's Section 48 Development Contribution Scheme.

6.3. Observations

- None submitted.

7.0 Assessment

7.1. Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Impact on Residential Amenities

- Visual Impact
- Impact on Residential Amenities
- Appropriate Assessment

7.2. Visual Impact

7.2.1. This is the critical issue in this appeal. It is worth noting that the appeal site has the benefit of planning permission under PA Reg. Ref. F19A/0405/ ABP 307006-20 which allows for the demolition of the existing 3 storey dwelling and the construction of a 3 storey over basement apartment block. It is of relevance to note that prior to the grant of permission, the height and scale of the apartment block was reduced to address concerns raised by the planning authority in relation the impact of the development on the residential and visual amenities of the area. In addition, a second planning application on the site which provided for a penthouse apartment was refused by both the Planning Authority and on appeal to ABP under PA Reg. Ref. F21A/0530/ ABP312281-21.

Table 3: Permitted v Proposed Developments – Comparisons

Development - comparisons	Permitted	Refused	Current Application
Gross Floor Area	1,120.5m ²	1,451.36m ²	1,414.86m ²
No. of units	8	9	9
Ground Floor Level	24.70m (OD)	24.70m (OD)	24.70m (OD)
Parapet Level	34.2m (OD)	37.150m (OD)	37.10m (OD)
Height	9.5m	12.45m (+2.95m)	12.4m (+2.9m)
Housing Mix	8 No. two bed apartments	Total of 9. 7 No. two bed apartments, 1 No. 3 bedroom apartment, 1 No.	Total of 9. 7 No. two bed apartments, 1 No. 3 bedroom apartment, 1 No.

		3/4 bedroom apartment 276.5m ²	3/4 bedroom apartment 240m ²
Dual Aspect	100%	100%	100%
Public Open Space	230	230	230
Parking spaces	8	9	10

7.2.7. The main change from the permitted design includes an additional penthouse apartment at third floor level with an increase in height of 2.4m. The main change from the refused design includes a reduction in height of 0.5m and a decrease in the size of the penthouse unit from 276.5m² to 240m².

7.2.8. The site is located in the Buffer Zone associated with the Howth SAAO and part of the transitional zone with the boundary of the SAAO area along the adjoining public roads and associated lands. This area is classified as a Coastal Character Type Landscape Area under the Fingal County Development Plan 2023-2029. This is a highly scenic and visually sensitive area with a low capacity to absorb new development. The sensitivity of the area is reflective with a number of views listed for preservation under the Fingal Development Plan 2023-2029 including views along Kilrock Road to the east, Balcadden Road to the north and north west and the East Pier of the Harbour to the northwest. Sheet No. 14 of the Development Plan indicates that the site is located within a 'Highly Sensitive Landscape'. Objectives GINH057, GINH058, and GINH059 seek to protect the distinctiveness of this landscape and resist inappropriate development and 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.

7.2.9. The site occupies an elevated position above the coast with views towards the sea and the islands. The existing development on the site comprises of a single detached two storey over basement dwelling. Whilst occupying the most elevated position on the site, it is considerably removed from Balcadden Road and largely screened by an existing embankment. The proposed development comprises of a

much larger and taller building with an overall area of c. 1414m² and a height of 12.4m. I note that much of the existing embankment will be removed at this location which will decrease the screening. I note that considerable landscaping is proposed but notwithstanding this, I consider that the visual impacts on this very sensitive area will be substantial.

7.2.10. On the day of inspection (a rainy Friday in April), the area surrounding the site was extremely busy with dozens of hikers and sea swimmers passing the site during the inspection. The site is located at the junction of Kilrock Road and Balscadden Road. The most direct walk between Howth Village and the Howth Head trail loops passes this junction directly and the Balscadden Road leads to the Cliff Path Loop car park. As such, many thousands of people annually will walk in very close proximity to the site and the views from this location are extremely important.

7.2.11. The appellant has submitted a very detailed appeal which focuses heavily on the visual impact of the proposed development. I have read this in full, together with the planning report submitted with the application. I have also examined the Landscape and Visual Impact Report submitted with the application.

7.2.12. The addition of a fourth floor alters the original design concept and represents a significant alteration in the visual relationship between the site and its context. The increase by one additional floor over the permitted development will alter the current permitted relationship and the increase in height proposed by 2.4m will increase the dominance visually of the apartment block. I am of the view that the proposed development will be overwhelming when viewed from the immediate vicinity of the site and on the approach road from Howth village where many views are listed. The site would also be visible when travelling from the Cliff Loop Car Park back towards the village. I accept the appeal submission that the listed views are predominantly towards the sea at this location, notwithstanding this, the site is located on Balscadden Road within the Howth Head Peninsula within the transitional zone of the Howth Special Amenity Area Order and the SAAO proper. The listed views are reflective of the highly scenic and visually sensitive nature of the area. Objective GINH058 seeks to resist new development which would interfere with the character of a highly sensitive area or with a view or prospect of special amenity value, which it is necessary to preserve.

- 7.2.13. The site will be most visually prominent from the immediate vicinity including the narrow Kilrock and Balscadden roads at this location. The appeal and LVIA state that *‘the proposed development if permitted would not result in a significant impact from any protected view points, and where most visible (i.e. Kilrock road), its effect would be moderate, but positive, in that the building is well designed and of good quality.’*
- 7.2.14. The design and materials proposed are of high quality. However, this is an elevated, open and exposed and extremely sensitive coastal site, opposite a protected structure and en route to the very popular Howth Head trail walks and in landscape designated as ‘Coastal Character Type’. I consider that the proposed development would represent an overly dominant, overwhelming and discordant feature in this highly sensitive landscape.
- 7.2.15. I agree with the appeal submission that the site will be most visible from Balscadden Road, Kilrock Road and from the Harbour walkway looking south-east. The appeal contends that the proposal is either moderate but positive (Kilrock Road) or is not significant from these view points, however I disagree in particular from Kilrock Road and Balscadden Road and the importance of the impact from the immediate vicinity cannot be over-emphasised having regard to the sensitivity of this location. Whilst the site will be visible from East Pier, there is a much greater separation distance between this location and the site. The protected structure Ben Eadair will partially shield the proposed development from East Pier. Whilst the previously permitted development appeared lower than the protected structure when viewed from this location, the provision of an additional floor will mean that the proposed development will be more visually dominant from this location in my view.
- 7.2.16. The appeal makes the point that the houses in Asgard Park are considerably more elevated than the proposed building. This is correct, however these are detached houses at a considerable remove from Balscadden road situated above an overgrown embankment. The embankment and retaining wall, screens these houses for large sections of the Balscadden Road traveling towards the site from the village. The proposed development cannot be compared on a like for like basis in terms of height and impact as the site is closer to the road and considerably more exposed and the scale of the proposed building is much greater than the existing detached dwellings.

- 7.2.17. The appeal states that *'Whilst it is fully accepted that Howth SAAO is a sensitive landscape, and that development in the buffer area must reflect this sensitivity, this does not preclude development, as is evidenced by the existence of development within the buffer area, and future development as per extant permissions granted for sensitively designed schemes. The subject site is not a pristine greenfield site, and has been deemed capable of absorbing development, similar to that now being proposed.'*
- 7.2.18. I agree that the subject site is capable of absorbing development, and this is reflected in the Board decision to previously grant a three-storey apartment block at this location. However, the proposed modifications would have a significant impact on the visual character of this sensitive area, and I do not agree that they are similar in terms of impact to what has already been granted on the site. The sensitivity of the site is reflected in the planning history of the site.
- 7.2.19. I note that concerns have been raised in the Planning Authority report regarding the visual impact assessment and in a number of observations submitted. The concerns raised considered that the images submitted with the current application were misleading and do not adequately represent the visual impact of the proposed development. The images were compared to the visual impact report and photomontages previously submitted on the history application for the site and it was considered that the images previously submitted with the application ABP-312281-21 are a more accurate representation of the impact of the proposed development.
- 7.2.20. A very detailed written response has been submitted to the appeal, which contains further visual assessments in response to the objections raised in the application.
- 7.2.21. I share some of the concerns raised regarding the Landscape and Visual Impact Assessment. I consider that more views have been illustrated than the previous proposal - there are 13 No. viewpoints illustrated as opposed to 5 No. viewpoints in the previous refusal. Many of the new viewpoints submitted are a significant distance from the site. I also note that it is helpful in terms of comparing the policy of the previous development plan to the current development plan. The images submitted are very small and need to be examined carefully. Typically, the proposed building is outlined in red and no photomontage of the proposed development has been submitted in most of the images. This compares with the previous application where

extremely large-scale photomontages were submitted from locations A-E. The only large-scale photomontage submitted in this application is of that of the development which has already been permitted at this location.

- 7.2.22. I note that a number of photomontages of the proposed scheme have been provided in the response to the appeal together with images depicting the granted apartment scheme, the existing dwelling and the proposed dwellings on the adjacent site to the south. It is stated that the Planning Authority are taking the whole building into consideration rather than the proposed penthouse. I note that the visual images submitted are improved over that submitted at the planning application stage. In particular, I refer the Board to Figure 05 presented in the appeal response which represents view B in both the history application and the current application. View B as presented in the documentation submitted with the application outlines only a small part of the site and the proposed building is represented in red outline at the side of the image. The photomontage presented in the appeal response presents a more comprehensive illustration of the visual impact of the proposed development in my opinion.
- 7.2.23. I am of the view that the addition of a fourth floor alters the original design concept and represents a significant alteration in the visual relationship between the site and its context. I consider that what has previously been permitted has reached capacity for the site. The Board is now required to examine the totality of the proposed 4 storey building as it cannot consider the visual impact of the proposed penthouse apartment on the top floor in isolation.
- 7.2.24. I consider that the proposed development will be a significant feature and will be the main visual focus when looking towards the site from the Balscadden and Kilrock Roads, however, I consider that the Visual Impact images submitted with the application do not reflect this. The images presented in the appeal response are more comprehensive.
- 7.2.25. I consider that the most important viewpoints are from Kilrock Road, Balscadden Road and East Pier and whilst Views A -D of the of the Landscape and Visual Impact Assessment do show these views, I consider that more images from these locations would have been helpful. I note that the proposed development will not be visible from the Cliff Road car park- view E, similar to the previously permitted development

and the refused development. I noted on the site inspection, that there are views of the site when travelling between the Cliff Road car park and the site, however, no images have been provided by the applicant in this regard.

7.2.26. In terms of precedent, the appeal considers that the proposed development would not set an undesirable precedent, that would cumulatively contribute to the erosion of the distinct and attractive character of the area. It is stated that the *'Board has previously assessed the potential impact on the visual and residential amenity and has found that there has been no such adverse impact as would warrant a refusal.'*

7.2.27. It is my view that the proposed development would set an undesirable precedent in the area. I consider that the Board has assessed the potential impact of both a three storey and a four storey development at this location. The three storey application was granted and the four storey development c. 0.5m lower than the proposed development and with a reduced floor area was refused. I note that there is a vacant site to the south of the proposed development. At the time of the site inspection, no development had occurred on this site and whilst there is a current permission on this site, it will expire later this year. There are many sensitive sites in close proximity to the site and the issue of precedent is important.

7.2.28. Having regard to the location of the site on a prominent site in a coastal scenic area of Howth, the views available towards the site, the scale, height and design of the proposed development, and the existing scenic and sensitive character of the area, it is considered that the proposed development would seriously injure the visual amenities of the area and set an undesirable precedent for further development of this type in this Coastal Landscape Character Area.

7.3. Impact on Residential Amenities

7.3.1. The Planning Authority report notes that 'all units are generously sized and in excess of the minimum standards as set out in the Design Standards for New Apartments, 2023. In addition, each unit has been served with adequate private amenity space.

7.3.2. The Planning Report submitted with the application indicates apartment sizes and private open space and I am satisfied that the required standards have been achieved.

- 7.3.3. The third reason for refusal considers the cumulative proposed development by way of its additional floor and height, it's prominent positioning, layout and mass in an area which maintains a distinct residential character is considered ad hoc and out of character. Further it is considered that the proposed development would overlook and be overbearing and detract from existing residential amenity.
- 7.3.4. In terms of overlooking and overbearing impacts, I consider that the development has been carefully designed to avoid these issues. The previously permitted scheme provided for a separation distance of 10.8m from the side elevation of the nearest residential unit permitted under PA Reg. Ref. F14A/0482 (extended under F141A/0482E1). The amended scheme provides for a reduced separation distance of c. 8.8m to the permitted residential unit to the south. I am satisfied that this is sufficient to mitigate any significant overbearing impact.
- 7.3.5. In relation to overlooking, I note that as detailed in Section SH02, the proposed third floor apartment is situated (c. 200mm) above the ground floor of the neighbouring dwelling in Asgard Park to the west, with a separation distance of c. 30m available between opposing windows. Having regard to the topography of the site with a steep embankment between the site and adjoining houses and the separation distance set out above, I am satisfied that the issue of overlooking will not arise in this instance.

8.0 AA Screening

- 8.1. The proposed modifications to plans previously granted permission under PA Reg. Ref. No. F19A/0405 (ABP 307006-20) has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Please see Appendix 3 of this report.
- 8.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Howth Head SAC and North West Irish Sea SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 8.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos. [000202], and [004236], or

any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

8.4. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures identified in the Natura Impact Statement.
- The extent of drainage and infill works proposed on site.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Howth Head SAC [000202], and North West Irish Sea SPA [004236].

9.0 Recommendation

I recommend that planning permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to:

- (a) the location of the proposed development on a prominent site within a Coastal Landscape Character Area that is categorised by the Fingal County Development Plan 2023-2029 as having exceptional landscape value and to be highly sensitive to development, and the location of the site within the buffer zone of the Howth Special Amenity Area Order (SAAO),
- (b) the preserved views along Kilrock Road, Balscadden Road and from the East Pier of the harbour as set out in the development plan,
- (c) Objective GINH058 which seeks to resist development which would interfere with the character of highly sensitive areas,

It is considered that the proposed development on an elevated site would result in an overly dominant feature, would be visually intrusive to the surrounding area and would represent an incongruous form of development compared to that which was granted permission under An Bord Pleanála appeal number 307006-20 planning register reference number F19A/0405 and would form an obtrusive and discordant feature in this highly sensitive and scenic coastal landscape. The proposed development would therefore be contrary to the stated objectives of the Fingal County Council Development Plan, to the visual amenities and to the proper planning and sustainable development of the area.

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.

Emer Doyle
Planning Inspector

17th April 2025

Appendix 1- Form 1

EIA Pre-Screening

An Bord Pleanála	319423-24		
Case Reference			
Proposed Development Summary	Modifications to plans previously granted permission to provide for 1 additional apartment (Increase from 8 to 9).		
Development Address	Osprey, Kilrock 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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	Class/ Threshold: Part 2 Class 10 (b) Construction of more than 500 dwelling units.	Proceed to Q3.
No	Tick or leave blank		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank		
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2- Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 319423-24
Proposed Development Summary	Modifications to plans previously granted permission to provide for 1 additional apartment (Increase from 8 to 9).
Development Address	Kilrock Road, Howth, Co. Dublin.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development is for amendments to a previously permitted apartment scheme.</p> <p>The project due to its size and nature will not give rise to significant production of waste during both the construction and operation phases or give rise to significant rise of nuisance.</p> <p>The construction of the proposed development does not have potential to cause significant effects on the environment due to water pollution. The project characteristics pose no significant risks to human health.</p> <p>The proposed development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
Location of development	Kilrock Road, Howth, Co. Dublin.

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The subject site is located within 5m of Howth Head SAC- See Appendix 3 in this regard. It is considered that having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Project of the Planning and Development Regulations 2001 as amended.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3: Appropriate Assessment Stage 1 and Stage 2

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	Modifications to permitted development (Increase from 8 to 9 units in apartment block)- See Section 2 for full description.			
Brief description of development site characteristics and potential impact mechanisms	The proposed development has been described in detail in Section 2 of my report. A summary of European Sites that occur within a possible zone of influence of the proposed development are set out below. The site is hydrologically connected to Howth Head SAC via the Coolcour Stream/ culvert under Balscadden Road.			
Screening report	Yes - An Appropriate Assessment (AA) Screening Report has been submitted with the application.			
Natura Impact Statement	Yes - A Natura Impact Statement has been submitted with the application.			
Relevant submissions	No			
Step 2: Identification of relevant European sites using the Source-pathway-receptor model				
<p>The submitted AA Screening report identifies a total of 9 SACs and 10 SPAs within a 15km radius of the site. These are set out in Section 3.2 of the submitted report. I consider that Howth Head SAC and North West Irish Sea SPA are the only sites with ecological connections to the site. North West Irish Sea SPA has been designated as a European Site since the previous applications on the site. All other sites within the 15km radius were determined to be located outside the zone of influence due to a number of factors including the separation distance provided and the absence of hydrological connection. The proposed development is located 282m from the Howth Head SPA which has one qualifying interest- Kittiwake. This species nest approximately 430m east of the site so impacts to this species are ruled out due to distance. For birds, disturbance effects would not be expected beyond a distance of c. 300m.</p>				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Howth Head SAC (000202)	Vegetated sea cliffs of the Atlantic and Baltic Coasts European dry heaths	5m	Via Coolcour Stream which runs under the site.	Y

	Howth Head SAC National Parks & Wildlife Service (As viewed on 16/4/25)			
Howth Head Coast SPA (004113)	Kittiwake https://www.npws.ie/protected-sites/spa/004113 (As viewed on 16/4/25)	282m	No	No
North West Irish Sea SPA (004236)	Red-throated Diver Great Northern Diver Manx Shearwater Common Scoter Little Gull Black-headed Gull Common Gull Lesser Black-backed Gull Great Black-backed Gull Roseate Tern Common Tern Arctic Tern Little Tern Guillemot Razorbill Fulmar Cormorant Shag Herring Gull Kittiwake Puffin https://www.npws.ie/protected-sites/spa/004236 (As viewed on 16/4/25)	75m	Yes	No

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The proposed development is located in close proximity to Howth Head SAC. This site has been screened in due to an ecological connection via the Coolcour Stream. Page 7 of the AA Screening Report identifies that this piped stream won't be disturbed as per agreement with Fingal County Council and instead a new pipe of greater diameter will be laid with one connection to the existing piped stream in the south-west corner of the site to ensure minimal disturbance.

The new North-West Irish Sea SPA is located approximately 75m from the site boundary and therefore in the zone of influence. The site is screened in for disturbance impacts on birds.

AA Screening matrix		
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: Howth Head SAC (Site Code: 000202) Vegetated sea cliffs of the Atlantic and Baltic Coasts European dry heaths	<p>Direct: No direct impacts and no risk of reduction in habitat area or fragmentation or any other direct impact.</p> <p>Indirect: The surface water drainage network on the site connects with the surface water drainage network which ultimately drains to Howth Harbour part of the Howth Head SAC.</p> <p>Negative impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution.</p> <p>At operational stage truck movements to the site generating potential impacts for vibration, dust and spillages to Howth Head SAC.</p> <p>Invasive species becoming introduced to the site via material used as fill from construction vehicles. The invasive species could spread to Howth Head SAC.</p>	<p>None anticipated.</p> <p>Likely significant effects without mitigation which could undermine conservation objectives of this site.</p>
	Likelihood of significant effects from proposed development (alone) in view of the conservation objectives of the site: Y	
	Impacts	Effects
Site 2: North West Irish Sea SPA (004236)	<p>Direct: No direct impacts</p>	<p>None anticipated.</p>

Red-throated Diver Great Northern Diver Manx Shearwater Common Scoter Little Gull Black-headed Gull Common Gull Lesser Black-backed Gull Great Black-backed Gull Roseate Tern Common Tern Arctic Tern Little Tern Guillemot Razorbill Fulmar Cormorant Shag Herring Gull Kittiwake Puffin	Indirect: Noise impacts and disturbance which may affect breeding birds.	Likely significant effects without mitigation which could undermine conservation objectives of this site.
	Likelihood of significant effects from proposed development (alone): Y	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
Based on the information provided within the applicant's Stage 1 Screening Report, undertaking a site visit and in reviewing the conservation objectives and supporting documents of the relevant European Sites, I consider that the proposed development has the potential to result in significant effects on the conservation objectives of Howth Head SAC (Site Code: 000202) and North West Irish Sea SPA (004236). Appropriate Assessment is required.		

Appropriate Assessment – Stage 2

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceeding screening determination, the following is an Appropriate Assessment of the implications of the proposed modifications to the apartment development in view of the conservation objectives of Howth Head SAC and North West Irish Sea SPA

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. There is no mitigation measures designed to avoid or reduce any adverse effects on site integrity included within the NIS, as part of the submitted application.

European Site (code)	Conservation Objectives	Potential adverse effects	Mitigation Measures
Howth Head SAC (000202)	<p>To maintain favourable conservation condition</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000202.pdf</p> <p>(As viewed on 16/4/25)</p>	<p>Impacts on water quality caused by dust and spillages from proposed infill or accidental pollution events.</p> <p>Introduction of invasive species by material imported onto the site and used for fill.</p>	See discussion below.
North West Irish Sea SPA (004236)	<p>To maintain the favourable conservation condition of these bird species.</p> <p>Red-throated Diver Great Northern Diver Manx Shearwater Common Scoter Little Gull Black-headed Gull Common Gull Lesser Black-backed Gull Great Black-backed Gull Roseate Tern Common Tern Arctic Tern Little Tern</p>	Noise Impacts during the construction phase.	See discussion below.

	<p>Guillemot Razorbill</p> <p>To restore the favourable conservation condition of these bird species.</p> <p>Fulmar Cormorant Shag Herring Gull Kittiwake</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004236.pdf</p> <p>(As viewed on 16/4/25)</p>		
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Mitigation Measures

Section 4.2 of the Natura Impact Statement sets out mitigation measures in respect of the proposed development.

The principal mechanism for impacts to Howth Head SAC arises from potentially polluted or silt laden waters discharging from the appeal site. In particular having regard to the topography of the site, very significant construction and infilling works are proposed adjoining the Coolcour Stream. The Coolcour stream traverses the site and discharges into Howth Harbour via a culvert under Balscadden Road. It has been agreed with Fingal County Council that the existing pipe won't be disturbed and instead a new pipe of greater diameter will be laid with one connection to the existing piped stream to ensure minimal disturbance.

In addition, the NIS refers to standard best construction practice environmental controls during construction to minimize potential run-off impacts, including adherence to CIRIA guidance and IFI guidelines. During the initial construction works, and before the site is connected to the public sewer network, all waste will be removed from the site via licensed waste contractors. Measures to control the introduction of invasive species are set out in Section 4.2.5 and are standard measures. Solid plywood noise barriers will be erected around the site to ensure dust is retained on the site. Any spillages from delivery trucks will be retained on site and there will be emergency spill kits on hand.

The principal mitigation measures in relation to the North West Irish Sea are in relation to disturbance of breeding seabirds and include the following:

No noisy activities such as jackhammering over 90dB from March 1st through August 31st to avoid the core breeding season for seabirds.

Solid plywood noise barrier as indicated above.

Construction hours limited to normal working hours.

No night-time lighting of construction areas facing the SPA during breeding season from March 1st through August 31st.

In Combination effects

In relation to in combination effects I note that the Fingal County Development Plan 2023-2029 includes a Natura Impact Statement. The mitigation measures identified in

the Stage 2 Appropriate Assessment (Natura Impact Statement) have been incorporated into the Plan. Accordingly, the implementation of this plan will not lead to any cumulative impacts when considered in-combination with the development proposed under this application.

It is detailed in the NIS that any plan or existing/ proposed project that could potentially affect Howth Head and North West Irish Sea SPA in combination with the proposed development must adhere to overarching environmental policies and objectives of the relevant land use plan.

This current application seeks permission for one additional unit and permission has previously been granted for 8 No. units at this location. In-combination effects were previously considered in the report for the permitted development. There is a current permission for two dwellings on an adjacent site to the south. Construction work is currently underway on the former Baily Court site for 180 apartment units.

I am satisfied that the applicant has demonstrated that no significant residual effects will remain due to the construction of the proposed development that could act in combination with other plans and projects to generate significant effects on Howth Head SAC or North West Irish Sea SPA in view of their conservation objectives.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of either Howth Head SAC or North West Irish Sea SPA. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusions

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Howth Head SAC and North West Irish Sea SPA in view of the conservation objectives of these sites and that Appropriate Assessment under the provisions of S177U was required.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos. [000202], and [004236], or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures identified in the Natura Impact Statement.
- The extent of drainage and infill works proposed on site.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Howth Head SAC [000202], and North West Irish Sea SPA [004236].