



An  
Bord  
Pleanála

## Inspector's Report

### ABP-322048-25

#### Development

Partial change of use from two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level. The development will also comprise a two-storey residential mews to the rear of the site to provide a three-bedroom dwelling and includes all associated site works.

#### Location

Site of approx. 0.0342 ha at No. 2 Railway Avenue, Malahide, Co. Dublin

#### Planning Authority

Fingal County Council

#### Planning Authority Reg. Ref.

F24A/0606E

#### Applicant(s)

Dara View Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant permission

#### Type of Appeal

Third Party

#### Appellant(s)

1. Dalton Tallon and Yvonne Walsh

2. Evan Duggan and Associates on behalf of Deirdre Rochford
3. Ciara Newman
4. Michael Hallingan Planning Consultant on behalf of Residents of Railway Avenue c/o Fiona Browne

**Observer(s)**

None on file

**Date of Site Inspection**

4/6/25

**Inspector**

Ronan Murphy

## 1.0 Site Location and Description

- 1.1. The appeal site is located within the town centre of Malahide and approximately 68m from the car park associated with Malahide Train Station to the west of the site. More specifically the appeal site is located on the northern side of Railway Avenue, which is a small one-way street which provides access from the train station to Malahide town centre.
- 1.2. The character of the area is mixed use with residential and services (veterinarian and dentists) along Railway Avenue leading into Old Street which has a mixture of residential, offices and cafes / restaurants.
- 1.3. The appeal site is a predominantly rectangular shaped parcel of land with a stated area of 0.034ha and at present comprises of a semi-detached two storey dwelling with attendant back garden.
- 1.4 The appeal site is bounded by No. 3 Railway Avenue to the west, a car park associated with a residential development known as Railway Court to the north, a small laneway providing access to the rear of No's 2-8 Old Street to the east and Railway Avenue to the south. The appeal site abuts but is not within the Malahide Historic Core Architectural Conservation Area and the Recorded Monument (DU012-023001, St. Sylvesters Well) is located within a public square on the opposite side of Railway Avenue.
- 1.4. The western, eastern, and northern boundaries of the site are heavily landscaped at present.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the partial change of use from a two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level. To facilitate the apartment at first floor level, a first-floor extension to the rear, including pitched roof detailing would be required. The proposed development would also comprise of a two-storey residential mews to the rear of the site to provide a three-bedroom dwelling and all associated site works.
- 2.2. The café would have a floor area of 73m<sup>2</sup> with a seating area of 49m<sup>2</sup> (with the capacity for 6 tables and bench seating for a capacity of 29 patrons). The café would include a

back of house area of 24m<sup>2</sup> and a WC. The front of ground floor of the building would be altered to include two timber framed shopfronts (including stall riser and signage fascia).

- 2.3. The first-floor apartment would have an area of c. 73.6m<sup>2</sup> and would include two bedrooms and a kitchen/living/dining room. The proposed first floor extension required to facilitate the provision of an apartment at first floor level would have an area of c. 30m<sup>2</sup> and would have a height commensurate with the existing building. Private open space for the proposed first floor apartment would be provided by way of a garden at ground level. The proposed garden would have an area of 24m<sup>2</sup>.
- 2.4. The mews dwelling would have an area of 120m<sup>2</sup> and would be located to the rear of the site. The proposed mews dwelling would include three bedrooms, a kitchen / living / dining room, and a lounge. The proposed mews dwelling would have a height of 5.7m with a flat roof. The mews dwelling would include three private open space areas (1 to the south-west, one to the north-west and one to the north-east with a combined area of c. garden areas with a combined area of 78m<sup>2</sup>).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1 By order dated 17<sup>th</sup> February 2025 Fingal County Council decided to grant planning permission subject to 20 conditions. The conditions are standard apart from the following:

- Condition 3 which requires that the café shall not be used as a fast food / take away outlet.
- Condition 8 which requires that the hours of the café shall be restricted to between 0.700 and 18.00 Monday to Sunday.
- Condition 13 which requires that all bathroom / ensuite windows shall be fitted and permanently maintained with obscure glass.

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

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

3.2.2 There are two planning reports in file. The initial area planners report is dated 26<sup>th</sup> August 2024. The initial area planners report states that the principle of the partial change of use from residential to café would contribute to the vibrancy and diversification of Malahide Town Centre in accordance with the TC zoning objective and Objective DMSO6. In addition to this, the conversion of the first-floor house to a self-contained apartment and the construction of a new house are both supported in principle in the TC zone.

3.2.3 The initial area planners report recommended that further information be requested relating to the following:

- The need to increase the dimensions of the proposed side entrance way which was considered to be excessively narrow.
- Submission of a Confirmation of Feasibility statement from Uisce Eireann.
- The need to establish if the water table and site characteristics of the site are suitable for a total infiltration permeable paving system. If not, then the applicant should provide an alternative SuDS proposal.
- Bicycle parking provision for the café as per the requirements of the *Fingal County Development Plan 2023-2029* Table 14.17.

3.2.4 Other Technical Reports

- **Water Services:** Report dated 8/8/24 requesting Further Information relating to the total infiltration permeable paving system.
- **Transportation:** Report dated 14/8/24 outlining no objection.
- **Conservation:** Report dated 19/8/24 outlining no objection.

3.2.5 A Further Information response was received on 22/1/25. The Further Information response included the following:

- A submission from Brock McClure (the first party's agent).
- Architectural Drawing Response Pack prepared by Macro Architects.
- Letter of Confirmation of feasibility from Uisce Eireann.
- Civil Engineering Report prepared by RS Consulting Engineers.

- Site layout plan (Engineering) prepared by RS Consulting Engineers.
- Infiltration Test prepared by Stingray Environmental Engineering.

3.2.6 The second planning report relating to the response to Further Information is dated 17/2/25 and considered that the applicant's response to the further information was sufficient and recommended that planning permission be granted, subject to conditions.

3.2.7 Other Technical Reports (Post Further Information)

- **Transportation:** Report dated 29/1/25 outlining no objection, subject to conditions.
- **Water Services:** Report dated 10/2/25 outlining no objection, subject to conditions.
- **Conservation:** Report dated 6/2/25 outlining no objection.

### 3.3. Prescribed Bodies

3.3.1 **Uisce Eireann:** Response dated 22/8/24 no objection, subject to conditions.

## 4.0 Planning History

4.1 There is no planning history associated with the appeal site.

### *Relevant planning history in the surrounding area*

**Reg. Ref. F21A/0559:** Application for change of use from 2-bedroom apartment to dental clinic which includes 2 no. new surgeries, a decontamination room, waiting area & a toilet. Permission granted, subject to conditions.

**Reg. Ref.: F14A/0079:** Application for carrying out repair and conservation works on both the existing cottage and house. This work involves the replacement of the existing windows with timber sash windows, natural slate roofing, lime render work as per the historical detailing, materials and techniques, the removal of the existing extensions

to the rear of the buildings. The addition of a cellar, 2-storey extensions, a change of use to restaurant use and associated and ancillary works.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The *Fingal County Development Plan 2023-2029* is the operational plan for the area. The appeal site is zoned TC 'Town and District Centre' with the associated land use objective to protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities. The vision for the TC zone is to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic. In order to deliver this vision and to provide a framework for sustainable development.

5.1.2 In addition to this, the site is located adjacent to the boundary of the Architectural Conservation Area for the Malahide Historic Core and St. Sylvesters Well (on the corner of Railway Avenue and Old Street (RPS No. 390).

5.1.3 The following policies and objectives are pertinent to the proposed development:

**Policy CSP34** which seeks to consolidate the growth of Self-Sustaining towns including Malahide by encouraging infill development and compact growth.

**Policy CSP38** which seeks to consolidate development and protect the unique identities of inter alia Malahide.

**Objective CSO62** which seeks to ensure that existing and future development within the settlements of Lusk, Rush and Malahide is consolidated within well-defined town boundaries.

**Objective EEO93** which seeks to ensure the development of Malahide (inter alia) as sustainable, vibrant and prosperous town centres.

**Objective SPQHO37** which promotes residential consolidation and sustainable intensification at appropriate locations.

**Objective SPQHO38** which seeks to promote residential development at sustainable densities throughout Fingal in accordance with the Core Strategy, particularly on vacant and/or under-utilised sites.

**Objective SPQHO39** which requires that new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area.

**Objective SPQHO42** which seeks to encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas.

**Objective DMSO6** which seeks to assess planning applications for change of use in urban and village centres on their positive contribution to diversification of the area.

**Objective DMSO8** which seeks to ensure that new shopfront design respects the character and architectural heritage of the existing streetscape.

**Objective DMSO11** which requires that security shutters on new shopfronts are placed behind the window glazing.

**Objective DMSO19** which requires that applications for residential development comply with Section 28 guidelines.

**Table 14.4:** Infill development.

**Objective DMSO32** which outlines criteria against which residential infill development will be assessed.

**Table 14.19:** Car parking standards.

**Policy HCAP14** which seeks to protect the special interest and character of all areas which have been designated as an Architectural Conservation Area.

**Objective HACO38** which supports the development of sustainable backland and infill development this is appropriate in scale and character to historic town and village centres.

**Objective DMSO31** which seeks to ensure that new infill development respects the height and massing of existing residential units.

**Objective CMO32** which seeks to implement appropriate car parking standards for a range of land-use types, where provision is based on factors such as site location, level of public transport accessibility and impact of parking provision on local amenity.

## **5.2 Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031**

5.2.1 It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

## **5.3 National Planning Framework (2040)-First Revision April 2025**

5.3.1 The National Planning Framework - Project Ireland 2040-updated in April 2025 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards

## **5.4 Section 28 Ministerial Guidelines**

5.4.1 Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024. These guidelines seek to support sustainable residential development and the creation of compact settlements for urban and rural areas.
- Quality Housing for Sustainable Communities: Design Guidelines. The purpose of these Guidelines is to assist in delivering homes, in sustainable communities that are socially inclusive.

- Architectural Heritage Guidelines for Planning Authorities, 2011, which provides a guide on the protection of architectural heritage.

## **5.5 Other Relevant Guidance**

- Design Manual for Urban Roads and Streets, 2019. The manual sets out design guidance for constructing new and reconfigured roads and streets.
- Malahide Public Realm Strategy Design Guide for Shopfronts.

## **5.6 Natural Heritage Designations**

5.6.1 This site is not located within a designated European site. The closest European sites are the Malahide Estuary SAC and the Malahide Estuary SPA which are located c. 175m to the north-east of the site. The Northwest Irish Sea CSPA is located c.2.5km to the south-east of the site.

5.6.2 The Malahide Estuary pNHA is located c.250m to the north-east of the site. An Appropriate Assessment screening exercise will be undertaken in Section 8 below.

## **5.7 EIA Screening**

5.7.1 The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

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

6.1.1 Third party appeal have been received from Dalton Tallon and Yvonne Walsh, Evan Duggan and Associates on behalf of Deirdre Rochford, Ciara Newman, and Michael Hallingan on behalf of the Residents of Railway Avenue. The grounds of appeal are extensive but can be summarised as follows:

### *Impact on residential amenity*

- The proposal would be Contrary to the *Fingal County Development Plan 2023-2029* due to loss of residential amenity to the neighbourhood and impact on the Architectural Conservation Area.
- Subject site cannot be considered to be brownfield or infill given that it is a back garden of a dwelling.
- The proposed development is in material conflict with many policies of the *Fingal County Development Plan 2023-2029*.
- The proposed development would lead to a loss of light into No. 8 Old Street due to the first-floor extension to the rear of No.2 Railway Avenue and No.5 5 Old Street by the two-storey mews.
- The proposed development would lead to overlooking from both the first-floor extension and from the proposed mews development.
- The proposal is an overdevelopment of the site given that there is no rear access. The floor area of the mews exceeds the gross floor area targets showing the applicants attempts to maximise site coverage. The access to the mews and apartment is narrow (1.5m) and would cause a public safety issue.
- The proposal would lead to overshadowing of adjoining properties. The plans submitted are insufficient to assess the impact of the proposed development on adjacent residential properties.
- The minimal (10m) set back of the proposed mews building form adjoining development would be overbearing.
- Devaluation of property due to residential amenity impacts. The proposal should not result in a transfer of value from a neighbour to a developer.
- The operation of the café will lead to an increase noise and hours of operation should be clearly defined. Some level of sound attenuation required.
- The proposed café in the middle of a residential terrace would cause serious injury to the residential amenity by way of odour.

- Waste disposal area is not adequate for a café.
- The proposed café and serving hatch would further erode the residential character of the street and will make it increasingly unattractive for existing residents to continue to reside there. Living over the shop policy relates to the reuse of vacant property above existing ground floor retail units and not to facilitate the loss of a residential ground floor use.
- The proposed café element would lead to an increase in anti-social behaviour. This would be exacerbated by the inclusion of integrated seating to the front of the premises.
- The proposed fence to replace the boundary planting is unacceptable and should be increased to a more acceptable level of quality and no higher than the existing fence.

#### *Commercial concerns*

- The proposal would lead to increase the pressure on limited car parking in the area. Loading and unloading of deliveries will put pressure in traffic pressures in the area, including disruption during the construction phase.
- The location of bicycle parking which would protrude 1.8m from the building would be an obstacle to pedestrians (especially vision impaired pedestrians)
- Lack of diversity in retail in Malahide Town Centre and over-commercialisation of a predominantly residential part of the town centre.

#### *Impact on the Architectural Conservation Area*

- Impact of the development on the Architectural Conservation Area
- Loss of mature tree in the back garden may have structural impacts on adjacent dwelling.
- Incorrect survey levels and cross-sections. The cross sections for not show true overlooking on houses on Old Street and Railway Crescent.

#### *Services*

- The proposed development would increase the demand on the existing drainage and watermain services.

- The proposal would cause disruption during the construction phase.

## 6.2. Applicant Response

6.2.1 The first party submitted a response to the third-party appeal which can be summarised as follows:

- Café and residential use permitted in the 'TC' zone. The residential units comply with guidelines and standards.
- The proposed café is modest in scale and would serve local demand and will enhance the area's vitality.
- The scale, height and massing are consistent with the prevailing urban form. The proposed development does not constitute overbearing development or overdevelopment of the site. The proposed development would not lead to overshadowing or any overlooking, the closet window is 24m away from a directly opposing window.
- Design of the mews would ensure that no element of the dwelling will impinge of neighbouring properties.
- Access arrangements for the café and residential units are safe and appropriate.
- The subject land does fall within the definition of brownfield / infill.
- Any suggestion that the proposed development would result in the devaluation of adjacent residential property is without basis in fact.
- Regarding noise, the applicant would comply with the hours of operation as set out in the Notification of Decision to Grant Planning Permission. The private open space areas are for the use of residents only. The cafes extraction system use would be limited to opening hours.
- The extraction system would ensure that there would be no odours from the café.
- Acceptable provision has been made for both the commercial and residential waste storage.

- Upgrading and refurbishing the existing property will provide this part of Railway Avenue with a sense of place and distinction.
- Any correlation between anti-social behaviour and the proposed café is mere speculation.
- The proposal complies with SPPR3 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 and the Fingal County Development Plan 2023-2029 with respect to car parking. The café would not give rise to frequent deliveries and there is a loading bay less than 50m from the front of the café.
- The proposed development would not result in a material change in demand or pressure on the existing engineering networks.
- The proposal will be constructed in the highest level of construction management.
- The proposal is a perfect use mix and would not lead to overcommercialisation of Malahide town centre. Commercial viability of the café is outside the parameters of the Board who are restricted to assessing any proposal based on planning considerations only.
- Proposal complies with building regulations and specially Part B and Part M.
- Access to the residential units is gated and would not represent a public safety issue.
- The lands are not located within an Architectural Conservation Area. The massing of the new element of the scheme not visible from the Architectural Conservation Area.
- Site survey drawings are accurate, as confirmed by the Planning Authority.

6.2.2 The first party appeal response includes a copy of the site survey drawing (prepared by Techsol) and cross sections / elevation drawings (prepared by Macro Architects).

### 6.3. Planning Authority Response

6.3.1 Letter dated 14/4/25 which can be summarised as follows:

- The application was assessed against the relevant policy and guidance in the Fingal County Development Plan 2023-2029.
- The site is centrally located and within the 'TC' zone and is a short distance from Malahide Station, the proposed development is acceptable in principle at this location and strongly supported by national, regional, and local policy on town centre development and densification.
- The residential units were assessed against relevant national standards and meet the quantitative standards and would not give rise to excessive overlooking, overshadowing or inadequate separation distances.
- The absence of car parking is acceptable given the sites location.
- The Planning Authority considered all issues raised in public submissions and subject to conditions the proposed development would not significantly impact residential amenity, or the Architectural Conservation Area and the ordinary use of the café would not be likely to give rise to excessive noise or anti-social behaviour.

#### 6.4. **Observations**

6.4.1 There are no observations on file.

#### 6.5. **Further Responses**

6.5.1 There are no further responses on file.

### 7.0 **Assessment**

7.1. Having examined the appeal details and all other documentation on file, including submissions / observations, the report of the local authority and inspected the site, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Character of the area
- Layout / Design
- Residential Amenity of surrounding properties

- Noise / Odour
- Traffic / Car parking
- Other matters
- Appropriate Assessment

## **7.2 Principle of development**

7.2.1 The appeal site is zoned TC 'Town and District Centre' with the associated land use objective '*Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*' The vision for the TC zone is to maintain and build on the accessibility, vitality, and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation, and sustainable development.

7.2.2 Both residential and café use are permitted in principle in the TC zone, and I am satisfied that the proposed uses are in accordance with the sites zoning objective and that the proposed development is acceptable in principle.

## **7.3 Character of the area**

7.3.1 Concerns are raised that the proposed development would further erode the residential character of Railway Avenue and make the area unattractive for existing residents to continue to reside there and would fundamentally change the nature of the street. Concerns are also outlined with respect to the to the classification of the site as 'Brownfield' or 'Infill' and argue that the subject site comprises of a back garden of an existing residential property.

7.3.2 I note the third-party concerns with respect to the character of the area. However, there are a mix of uses along Railway Avenue which include residential, offices (including doctors' surgery and dental clinic) and a veterinarian surgery and therefore an additional commercial use would not be alien to the locality. In addition to this, the appeal site is within the TC zoning which broadly seeks to develop urban centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses and to develop the urban fabric of these areas in accordance with the principles of

urban design. I am therefore satisfied that the character of the area can be described as a mixed use, town centre location.

*Brownfield / Infill development*

- 7.3.3 I note third parties concerns with respect to the classification of the site as ‘Brownfield’ or ‘Infill.’ I have regard to Appendix A (Glossary of Terms) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 which provides a definition of ‘Brownfield’ as *‘Land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces, generally comprising of redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas’*. In my opinion the site does not confirm with the definition above as the site is not redundant industrial lands or docks and is not a former barracks, hospital or an obsolete housing area.
- 7.3.4 However, the site does come within the definition of an infill site. Appendix A (Glossary of Terms) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 gives the following definition of infill development: *serviced lands that are located within the existing built-up footprint of settlements. May consist of Brownfield Sites or Greenfield Sites.*
- 7.3.5 Therefore, I am satisfied that the appeal site can be accurately described as infill. There is support in the *Fingal County Development Plan 2023-2029* for infill development in various policies and objectives including CSP34 which seeks to consolidate the growth of Self-sustaining Towns including Malahide and SPQHO37 which promotes residential consolidation and sustainable intensification at appropriate locations. The proposed development comprises of a mixed-use development on a serviced plot within the town centre of Malahide and I am satisfied that the proposal would not be in material conflict with the development plan with respect to infill development. In addition to this, I also note that Section 3.3.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 provides support for infill development in Metropolitan towns with a population greater than 1,500 such as Malahide. While this maybe the case, the amenity of surrounding properties must also be considered and a detailed consideration of such is outlined below.

## 7.4 Layout / Design

7.4.1 The proposed development comprises of the partial change of use from a two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level, including a first-floor extension over an existing flat roofed kitchen at ground floor to the rear of the building to facilitate this.

7.4.1 The proposed development would also comprise of a two-storey residential mews to the rear of the site to provide a three-bedroom dwelling and all associated site works.

### *Café*

7.4.2 The café would have a floor area of 73m<sup>2</sup> with a seating area of 49m<sup>2</sup> (with the capacity for 6 tables and bench seating for a capacity of 29 patrons). Objective EEO93 of the *Fingal County Development Plan 2023-2029* seeks to ensure the development of Malahide (inter alia) as sustainable, vibrant and prosperous Town Centres performing at a high retail level within the Fingal Retail Hierarchy to meet the retailing needs of and offer sufficient retail choice to their local populations and catchment populations. The appeal site is located within Malahide Town Centre and is in proximity to Malahide Train Station, I am satisfied that the proposed café would add vibrancy and vitality to this area of the Malahide Town Centre and would comply with Objective EEO93. I note that the Planning Authority has included a condition which restricts the hours of operation of the café to daytime hours to protect the nighttime amenity of surrounding properties. In light of the daytime hours of operation of the proposed café, I am satisfied that the operation of the café would not unduly impact on the residential amenity of abutting properties.

### *Architectural Conservation Area*

7.4.3 Third parties have highlighted concerns that the proposed development would impact on the character the Malahide Historic Core Architectural Conservation Area and the Recorded Monument (DU012-023001, St. Sylvesters Well).

7.4.4 The appeal site is not located within this ACA and St. Sylvesters Well is on the opposite side of Railway Avenue. The proposed café includes a traditional shopfront design which includes a timber framed glazed shopfront, signage within the fascia and stall riser. I make the Board aware that, in my opinion, the shop front design complies with the document *Malahide Public Realm Strategy Design Guide for Shopfronts*.

7.4.5 The Conservation officer considered that proposal acceptable, subject to conditions. I am satisfied that the design of the shopfront is acceptable and would not detract from the abutting Malahide Historic Core Architectural Conservation Area.

7.4.6 I am satisfied that the overall design of the café element of the proposed development successfully integrates with the surrounding streetscape, which is a mixed use, town centre environment.

*First floor apartment*

7.4.7 The proposed first floor apartment would be a two bed four-person apartment with a floor area of c.73.6m<sup>2</sup>. In assessing the proposed apartment, I note that overall area would slightly exceed the minimum floor area as set out in the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2024, however the aggregate area of the bedrooms would be 0.7m<sup>2</sup> below the minimum aggregate floor areas. Section 3.34 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2024 allows for flexibility for building refurbishment schemes and I consider this non-compliance to be acceptable, given the overall quality of the unit.

7.4.8 Private open space for the apartment would be provided at ground floor level and would have an area of c. 22m<sup>2</sup>. This area far exceeds the requirement of as set out in the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2024.

7.4.9 While I acknowledge that the proposed first floor extension to facilitate the first-floor apartment above the café unit would be partially visible from certain viewpoints within the public realm (primarily from the southwest), I am satisfied that the design would not be incongruous within a town centre setting. The proposed extension would match the height and would have a pitched roof profile and as such would read in a comparable manner to the existing.

*Mews dwelling*

7.4.10 The proposed mew dwelling to the rear of the site would comprise of a 3 bed five-person unit with an area of c.120m<sup>2</sup>. I note that overall area would exceed the minimum floor area as set out in the Quality Housing for Sustainable Communities: Design Guidelines. All rooms would exceed the minimum floor area standards.

7.4.11 Private open space for the mews would be provided at ground floor level and comprises of three areas: 1. An area to the southwest of unit with an area of c. 18m<sup>2</sup>, 2. An area to the northwest of the unit with an area of 43m<sup>2</sup> and 3. an area to the northeast of the unit with an area of 17m<sup>2</sup>. This would exceed the area of 40m<sup>2</sup> for a three-bed house set out in SPPR2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.

7.4.12 The proposed mews dwelling would be a part two storey dwelling with a maximum height of c.5.7m with a flat roof. The ground floor elements of the proposed mews dwelling would abut the northern, eastern, and western boundary of the land.

7.4.13 The first-floor element which provides for a 1 no. bedroom and would comprise of a pop-up first floor element which would be set back c. 5.3m from the western boundary of the land, c.8.3m from the northern boundary of the land and c. 1.4m from the eastern boundary of the land. Given the infill nature of the proposed development, I am satisfied that the overall design of the ground floor elements of the proposed mews dwelling would not visually detract from the residential amenity of the area, however, I do have concerns relating to the first floor element which will be discussed below.

7.4.14 The residential element of the proposed development would be accessed by way of a passage to the side of the building which would have a width of c.1.5m at its most narrow point. The accessway would include wider areas (c.1.8m) for turning primarily at the access gateway and at the proposed entrance court. I note the concerns of the third parties with respect to the width of the access to the residential element of the scheme, however, given the short length of the access way and the relatively small amount of future residents, I am satisfied that the access to the residential element of the scheme is acceptable.

7.4.15 I note the concerns of the third-party concerns to the overdevelopment of the site; however, I am satisfied that the layout and design of the proposed development comply with local and national policy and as such is acceptable.

## 7.5 Residential Amenity of surrounding properties

7.5.1 Concerns are raised that the proposed development would have an adverse impact on the residential amenity of the existing developments by way of overlooking, overshadowing and overbearing development.

7.5.2 Objective DMSO19 of the *Fingal County Development Plan 2023-2029* requires that all applications for residential development comply with Section 28 guidelines. SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 states that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

#### *Overlooking*

7.5.3 The proposed residential element would directly oppose any other dwellings. The first-floor apartment would be set back c. 35m from Railway Court and the mews dwelling would be set back c. 24m from Railway Court. These setbacks are acceptable considering the requirements of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.

7.5.4 While the proposed development would not directly face towards No's 4-8 Old Street or No.3 Railway Avenue, due consideration must be given to appropriate protection of the residential amenities of these properties.

7.5.5 In terms of overlooking there is a translucent glass window serving a bedroom within the rear elevation of the first-floor apartment and a clear glazed window serving a bedroom within the rear elevation of the first floor of the mews dwelling.

7.5.6 The application material submitted with the initial application includes an overlooking diagram. This diagram provides vision cone drawings which show that there would be oblique overlooking only and that visible first floor windows of dwellings on Old Street would be in excess of 19m. In addition to this, the overlooking diagram demonstrates that, due to the angle of vision from the bedroom window, it is not possible to see into the roof lights at No. 8 Old Street and that the window of the first-floor apartment would have a partial view of the gable of No.3 Railway Avenue.

7.5.7 The overlooking diagram also assesses the window within the first floor of the mews dwelling and shows that the proposed mews development would not cause any undue overlooking of residential developments at Railway Court, Old Street or No.3 Railway Avenue.

7.5.8 Given the information provided; I am satisfied that the proposed development would not cause any undue overlooking of surrounding properties.

#### *Overshadowing*

7.5.9 As regards overshadowing, I note that the application material provides shadow diagrams which demonstrate that the proposed development would not cause undue overshadowing on either March 21<sup>st</sup> or June 21<sup>st</sup>. Third party concerns that the shadow diagrams are insufficient to accurately assess the impact of the proposed development as they only pertain to March and June are noted. However, I make the Board aware that the BRE Guidelines- *Site layout planning for daylight and sunlight: a guide to good practice (BR 209 2022 edition)* suggests that March 21<sup>st</sup>, (also known as the spring equinox), is appropriate assessment date as this date offers representative conditions between summer and winter as an average for the year. December is the shortest day of the year, and the shadows would be at their longest. I am therefore satisfied that the shadow diagrams included with the application are acceptable given the limited size of the first-floor pop-up element of the mews dwelling. Having considered the diagrams, I am satisfied that the proposed development would not cause undue overshadowing.

#### *Overbearing*

7.5.10 With respect to overbearing development, I note the concerns of third parties relating to the set back of the proposed development from abutting properties on Old Street and No.3 Railway Avenue. The first floor of first floor element of the mews development would be set back c. 2.7m from the rear boundaries of properties on Old Street and c. 5.5m from the side boundary of No.3 Railway Avenue. While I note that the application material demonstrates that the proposed development would not unduly overshadow abutting properties, I have concerns relating to the potential for overbearing development with respect to the first-floor element of the proposed mews dwelling. These concerns relate to the set back of the first-floor element from the rear boundaries of dwellings on Old Street in combination with the small rear gardens of these properties. In my opinion the first-floor element of the mews dwelling should be omitted from the scheme, this would ensure that the proposed development would comply with the criteria set out in Table 14.4 and objective DMSO32 of the *Fingal*

*County Development Plan 2023-2029*. This matter could be dealt with by way of condition if the Board is of a mind to grant planning permission.

7.5.11 In addition to this, I note concerns relating to the boundary treatment of the proposed development along eastern boundary of the land. The development seeks to replace the existing boundary fence of 1.5m with a new 2m high concrete post hit and miss fence, with screen planting in the residential courtyards of the proposed development. While I accept that the proposed fence is higher than the existing boundary, I am satisfied that it would not have an unacceptable impact on the residential amenity of the abutting properties.

## **7.6 Noise / Odour/ Waste Disposal**

7.6.1 Third parties have outlined concerns relating to the potential for noise and odour impacts because of the operation of the café. These concerns relate to the hours of operation of the café and the impact of the kitchen fan / exhaust system for the café and external seating to the front of the property.

7.6.2 Regarding opening hours, the planning authority decision included a condition which restricts the opening hours of the café between 0.700 and 18.00 Monday to Sunday. I have considered this condition in combination with the town centre zoning of the appeal site and the surrounding residential uses, and I am satisfied that such a condition would be reasonable and warranted in the event of a grant of planning permission for the proposed development. In my opinion, this condition achieves a reasonable balance between a business operating in a town centre and the protection of residential amenities of surrounding properties.

7.6.3 I note the third-party concerns relating to the kitchen fan / exhaust system associated with the café use. The proposed extraction fan would be located to the rear of the building and would extend 600mm above the ridge height of the building.

7.6.4 I note the limited area of the café and the limited opening hours combined with the set back of the kitchen fan / exhaust system from the surrounding properties. I consider that a condition which requires the applicant to agree a detailed scheme with the Planning Authority relating to the control of odour and fumes from the ventilation system and a further condition which would limit any noise from the ventilation system would be reasonable and warranted in this case in the event of a grant of planning permission for the proposed development. Subject to compliance with these

conditions, I am satisfied that that the proposed fan / exhaust system would not unduly impact on the residential amenities of surrounding properties.

7.6.5 With respect to waste storage for the proposed café, I note that an area is set aside for bin storage to the rear of the café unit. Subject to appropriate management, I am satisfied that the waste storage area for the café is acceptable.

## 7.7 Traffic / parking

7.7.1 Concerns are raised that the proposed development would lead to increase the pressure on limited car parking in the area and that the loading and unloading of deliveries will put pressure in traffic pressures in the area, including disruption during the construction phase.

7.7.2 The proposed development does not include any car parking spaces. *The Fingal County Development Plan 2023-2029* sets out objectives and development management standards for car parking. Policy CMO32 states that appropriate car parking standards should be implemented, and Section 14.17.7 of the plan sets out parking standards. The site is within zone 1 where maximum standards apply, however the plan states that the standards do not apply where the development involves the re-use of an existing building, change of use or infill development. The Transportation Planning Section has no objection to the car parking provision proposed. I am satisfied that this is an accessible town centre location served by public transport and that the development proposal relates to an existing building and infill development and therefore that the provision of one parking space for the building is acceptable and is consistent with Policy CMO32 of the development plan.

7.7.3 Regarding loading / unloading and its impact on the traffic movements in the area, I acknowledge the concerns of the third parties, however the café is a relatively small and is unlikely to require large volumes of deliveries. I further note that there is a loading bay on Old Street and a further loading bay on Strand Street which could facilitate deliveries to the proposed café. I am satisfied that the proposed development would not have an undue impact on traffic in the area.

7.7.4 Cycle parking for the cafe is proposed to be provided by way of two wall mounted long stay bicycle spaces for the staff within the café itself. It is also proposed to provide short term bicycle parking with integrated bench rest to the front of the building for customers. I note third party concerns that the proposed bicycle parking provision to

the front of the café would constitute an obstacle to pedestrians (especially visually impaired pedestrians). Having inspected the drawings, I note that the proposed short-term bicycle parking and integrated bench rest which protrudes from the front of the café is not within the red line area of the appeal site. In addition to this, there is no letter of consent from the Local Authority on file with respect to development on land within their ownership. This matter could be dealt with by a Street Furniture License under Section 254 of the Planning and Development Act 2000 (as amended), however, this is not a matter which can be considered within the appeal. It is recommended that a condition omitting this element of the proposed development be included, should the Board be of a mind to grant planning permission.

## 7.8 Other matters

### *Anti-Social Behaviour*

7.8.1 Concerns are raised that the café element of the proposed development including seating to the front would lead to an increase in anti-social behaviour. The café will only have access to the front of the building, which is open to passive surveillance from surrounding buildings. I do not believe a café with limited opening hours within a town centre would lead to a material increase in any anti-social behaviour.

### *Overcommercialisation and lack of diversity within Malahide*

7.8.2 Concerns are raised that Malahide is oversupplied with food / beverage / hospitality services and there is no demonstrable need for a further business in this sector. I acknowledge concerns with respect to a perceived overconcentration of with food / beverage / hospitality services in Malahide Town Centre. I have walked around the town centre of Malahide, and I note that there are a number of cafés / hospitality venues. Notwithstanding this, café is a permitted use in the TC zone, and I note that the *Fingal County Development Plan 2023-2029* broadly seeks to support the consolidation of Malahide as a centre for services and retail as set out in Objective EEO93. I am satisfied that the proposed development is acceptable in this regard.

### *Compliance with Technical requirements*

7.8.3 Concerns have been raised that the proposed development would not comply with the need for a Disability Access Certificate Part M of the Building Regulations. I acknowledge these concerns; however, I note that the issue of compliance with

Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

#### *Property Devaluation*

7.8.4 Concerns have been raised that the proposed development would lead to the devaluation of surrounding properties. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

#### *Site Survey and Cross Sections*

7.8.5 Third parties have outlined concerns relating to the site survey levels being incorrect by over 1 meter and that the cross sections do not show true overlooking that the proposed development would have on properties front Old Street. I note that the area planner highlighted in their report that the site has been accurately represented and that no material inaccuracies were present. The first party appeal response includes a copy of the survey prepared by Techsol Technical Solutions Limited. I have been on site, and I would agree with the area planner that the site has been accurately represented.

#### *Engineering Services*

7.8.6 Third parties have highlighted concerns relating to the increase the demand on existing drainage and watermain services. I note that the response to further information includes a Confirmation of Feasibility form Uisce Eireann. In addition to this, Condition 16 of the Notification of Decision to Grant Planning Permission requires the applicant to sign a connection agreement with Uisce Eireann prior to the commencement of development. In addition to this, the Water Service Department of Fingal County Council did not object to the proposal. I am satisfied that the proposal is acceptable from an engineering services perspective.

## 8.0 AA Screening

8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located within an urban in the town centre of Malahide. The proposal comprises of the partial change of use from a two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level (including a pitched roof first floor extension to the rear to facilitate same) and a two-storey, three-bedroom residential mews to the rear of the site.

8.2 The designated sites within 15km of the subject site are outlined below:

- Malahide Estuary SAC c.175m
- Malahide Estuary SPA c.175m
- North west Irish Sea CSPA c.2.5km
- Malahide Estuary pNHA c.175m

8.3 The surrounding area is urban in nature with a variety of uses, including retail, commercial units, residential, institutional, and community uses. The site is serviced by public water supply and foul drainage networks. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

8.4 The Irish Sea is located c. 175m to north-east and east of the appeal site. There are no watercourses within the site and there is no direct hydrological connection between the appeal site and any of the designated sites. The site is located within an urban area and there is extensive buffer between the appeal site and the designated sites.

8.5 During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in

the zone of influence from surface water run-off can be excluded given the distant and lack of a hydrological connection and the nature and scale of the development.

- 8.6 I note that the scheme includes SUDS measures including permeable pavements, sedum flat roof and SUDS planters as outlined in the Civil Engineering Report prepared by RS Consulting Engineers. I make the Board aware that SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site and could not be considered as mitigation measures in the context of Appropriate Assessment.
- 8.7 The foul water discharge would drain via the public sewer to the Malahide wastewater treatment plant for treatment and then discharge to the Irish sea. In light of this, there is potential for an interrupted and distant hydrological connection between the appeal site and the Irish sea (i.e. Malahide Estuary SAC, Malahide Estuary SPA, North west Irish Sea SPA and the Malahide Estuary pNHA) having regard to the wastewater pathway. In this regard I note that the appeal site is on land zoned for development purposes in the *Fingal County Development Plan 2023-2029*. This adopted plan was subject to an AA by the local authority and concluded that its implementation would not result in adverse effects to the integrity of any Natura 200 sites. The Malahide WWTP has a plant capacity PE of 27,000 and Malahide had a population of 18,608 in 2022. In my opinion, the proposed development would not generate significant demands on the WWTP which has more than sufficient capacity to service the proposed development and that the discharge from the site would be insignificant in the context of the overall licenced discharge at Malahide WWTP, and thus its impact on the overall discharge would be negligible.
- 8.8 The site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant

qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

- 8.9 It is noted that the planning authority were satisfied that the development is unlikely by way or direct, indirect, or secondary impacts, individually or in combination with other plans or projects to have any significant effect on any European Site.
- 8.10 I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.11 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 Recommendation

- 9.1 I recommend that planning permission be granted.

## 10.0 Reasons and Considerations

- 10.1 Having regard to the provisions of the Town Centre zoning objective of the subject site, its location within the town centre of Malahide, its proximity to Malahide Train Station and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 22<sup>nd</sup> day of January 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the

planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The proposed development shall be amended as follows:

- (a) The first-floor element of the mews dwelling to the rear of the site shall be omitted from the scheme.
- (b) The sill height of the window serving the bedroom at first floor level of No.2 Railway Avenue shall be raised to 1.5m.
- (c) The proposed short term bicycle parking with integrated bench rest to the front of the building for customers as shown on the drawings submitted with further information shall be omitted from the scheme unless otherwise agreed with the Planning Authority.
- (d) All bathroom windows shall be obscured by opaque glazing and shall be non-opening.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of clarity of what part of the development is within the development boundary and the residential amenity of the properties to the east.

3. The Opening hours of the café shall be restricted to between 0700 hours to 1800 hours Monday to Sunday. The specified hours of operation shall be strictly

adhered; any alterations to same shall be subject to the prior written consent of the Planning Authority.

**Reason:** In the interest of residential amenity.

4. The café shall not be used as a takeaway/fast food outlet.

**Reason:** In the interest of residential amenities, orderly development and visual amenities.

5. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001 (as amended) no advertisement signs (including any signs installed to be visible through the windows), advertisement structures including freestanding structures, banners, canopies, flags or other projecting element shall be displayed or erected on the building or within its curtilage or attached to glazing without a prior grant of planning permission.

**Reason:** To protect the visual amenities of the area

7. Before the change of use at ground floor level hereby permitted commences, a scheme shall be submitted to, and agreed in writing with the Planning Authority, for the effective control of noise, fumes and odours from the premises. The scheme shall be implemented before the use as a café commences and

thereafter permanently maintained. The following matters should be addressed in any such proposal:

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

9. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

10. (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that

the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

11.No development shall commence on the site until such time as the following have been agreed and complied with:

(a) Requirements of Fingal County Councils Water Services Planning Section.

(b) Surface water arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Full details shall be agreed with the Planning Authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

**Reason:** In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area

12.Proposals for a naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer

has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

13. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

**Reason:** In the interest of public health

14. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects,' published by the Environmental Protection Agency in 2021.

**Reason:** In the interest of sustainable waste management.

17. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interest of sustainable transport and safety.

18. 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.

**Reason:** 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.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with

the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

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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**Ronan Murphy**  
Planning Inspector

9 June 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	<b>ABP-322048-25</b>
<b>Proposed Development Summary</b>	Partial change of use from two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level. The development will also comprise a two-storey residential mews to the rear of the site to provide a three-bedroom dwelling and includes all associated site works.
<b>Development Address</b>	2 Railway Avenue, Malahide, Co. Dublin
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b>  (For the purposes of the Directive, “Project” means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a ‘Project.’ Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

**3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?**

<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<p>The proposed development comprises of a mixed-use hospitality and residential development (1 café and 2 residential units) on a site with an area of 0.0342 ha. The proposal is below the thresholds set out in Class 10(b)(i) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.</p>

**4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?**

<b>Yes</b> <input type="checkbox"/>	
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP-322048-25</b>
<b>Proposed Development Summary</b>	Partial change of use from two-storey residential building to a new café at ground floor level and a new two-bedroom apartment at first floor level. The development will also comprise a two-storey residential mews to the rear of the site to provide a three-bedroom dwelling and includes all associated site works.
<b>Development Address</b>	2 Railway Avenue, Malahide, Co. Dublin
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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).	The partial change of use of the ground floor of an existing dwelling and the provision of a first-floor residential unit and a separate two storey mews dwelling come forward as a stand-alone project. The development does not require any demolition works. The development does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land	The development is situated in an urban built-up serviced location, is adjacent to but not within an ACA or any sensitive landscapes.

<p>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).</p>	
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation).</p>	<p>Having regard to the nature of the proposed development, consisting of the partial change of use of the ground floor of an existing dwelling and the provision of a first-floor residential unit and a separate two storey mews, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

**Conclusion**

<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p>
<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p>	
<p><b>There is a real likelihood of significant effects on the environment.</b></p>	

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)