



An
Coimisiún
Pleanála

Inspector's Report PL-500381-DF-25

Development	Construction of 2 dwellings with all associated site works.
Location	Lands west and to the rear of No. 1 Cabra Hill, Skerries, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F25A/0840E
Applicant(s)	Elaine Smith
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party Normal Planning Appeals
Appellant(s)	Elaine Smith
Observer(s)	Brid Hickey on behalf of Residents of Ballygossan Park and Cabra Hill, Skerries.
Date of Site Inspection	26 th June 2026
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site is described as lands to the west and rear of No. 1 Cabra Hill, Skerries. The site comprises the end of the rear garden of No. 1 Cabra Hill. The rear garden is long, measuring approximately 150m in length. The site area is stated as 0.069ha.
- 1.1.2. To the north is the rear garden of No. 5 Cabra Hill (within what was formerly the lengthy rear garden of No. 2 Cabra Hill). The rear garden of No. 5 comprises a grassed area, with the dwelling itself to the north-east of the subject site.
- 1.1.3. To the west of the site is a grassed area of public open space associated with the Hillside Gardens housing estate, with significant tree growth adjacent the site.
- 1.1.4. To the east is the remainder of the rear garden of No. 1 Cabra Hill. The remaining garden east of the site would extend some 85m to the rear of No. 1 Cabra Hill.
- 1.1.5. To the south is the Ballygossan Park housing estate. Five dwellings (No's. 48-52) back onto the site. They are 1- & 2-storey semi-detached and terraced dwellings. Part of the internal road network in Ballygossan Park runs to the site boundary.
- 1.1.6. The site is heavily overgrown. The northern boundary comprises sparse hedge planting. The eastern boundary is open. The western boundary comprises hedgerows and a wall. The southern boundary comprises the remains of a hedgerow, with some small trees. South of this, a steel mesh fence abuts Ballygossan Park. The surrounding lands are in an elevated position in the area.

2.0 Proposed Development

- 2.1.1. The development comprises construction of 2 no. single-storey detached dwellings. It includes the creation of a new vehicular and pedestrian access to serve the dwellings from Ballygossan Park. The road within Ballygossan Park is to be extended across the site to the boundary with the garden to the north. The dwellings would be located either side of the road. Each dwelling would have parking to the front and a garden to the rear. The proposed boundaries would comprise 1.8m high capped block walls to the sides and rear of each dwelling.
- 2.1.2. The applicant submitted a Planning Report, architectural drawings, and related information.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council issued a notification to refuse permission for 1 no. reason, summarised as follows:

- Reason 1: Having regard to the restricted backland nature of the site, the plot width(s), the proposed dwelling designs, and their proximity to the site boundaries; the development would have an undue overbearing impact on neighbouring properties and result in significant adverse impacts on the visual and residential amenities of the area;
- The applicant has not addressed the previous reason for refusal issued under Reg. Ref. F25A/0553E;
- The development would contravene materially the 'RS' land-use zoning objective, Objectives SPQHO39, SPQHO42, SPQHO43, DMSO31 and Table 14.4 of the Fingal Development Plan 2023-2029.

3.2. Planning Authority Reports

3.2.1. Planning report: The report recommended refusal. I note the following points:

- Zoning: Proposal is acceptable in principle;
- Proposed dwellings: Sizes and layouts meet guidelines requirements;
- Private amenity: Both dwellings exceed Compact Settlement SPPR2 minimum of 40sqm. Despite this the report stated concerns with the standard of amenity of the space for Unit 1 due to the arrangement of the garden and built-up nature of the property to the south and boundary to the west;
- Separation distances: Regarding separation distances the report stated:
 - Proposed dwellings are 102m from the rear of No. 1 Cabra Hill and 17m from the rear of No. 5 Cabra Hill. Unit 1 would be 11.5-11.6m from the rear of Nos. 51 & 52 Ballygossan Park, and Unit 2 would be 10.4-10.6m from the rear of Nos. 49 & 50 Ballygossan Park. Some of the stated measurements are imprecise. Report sets out details of proposed distances

to the northern and southern site boundaries (that is, 1-1.5m). The plans appear identical to that refused under Reg. Ref. F25A/0553E;

- Report referred to details of the site boundaries, including points made by Observers, and raised concern that the separation distances between the proposed dwellings and boundaries could not be achieved, and that this raised concern with the amenity of the proposed habitable rooms;
- Report referred to Compact Settlement Guidelines SPPR1 and raised concerns regarding impacts on amenity of existing dwellings due to apparent inaccuracies in the submitted drawings. Report stated that Further Information was required to ensure appropriate side passageway widths and separation distances for each dwelling;
- Visual & residential amenity: Applicant was refused permission for a similar development in 2025 (Ref. F25A/0553E). 'The document' submitted with the application is identical to that of Ref. F25A/0553E with the exception of a masterplan for adjoining lands to the north. Report set out commentary regarding boundaries, separation distances. Report referenced concerns with the standard of amenity that would be provided to habitable rooms. Applicant did not fully address previous refusal reasons under Refs. F25A/0553E and F23A/0733. Current proposal is closer to the southern site boundaries than F23A/0733. Report also stated the applicant does not address previous reasons for refusal regarding overdevelopment and the restricted / back-land nature of the site as per F23A/0733. Report also referenced the proposed height, and stated the proposal would have a dominant impact on adjoining residential properties and would appear overbearing on Ballygossan Park and the open space of No. 5 Cabra Hill;
- Transportation and access: Regarding parking, the report stated cycle parking can be accommodated in the curtilage of each dwelling in line with Compact Settlement Guidelines SPPR4. Report also considered the proposed parking provision is acceptable having regard to Development Plan Tables 14.18 and 14.19 which have a maximum requirement of 1 space per dwelling. Regarding access, report noted the submitted letter of consent from the Council for connectivity from Ballygossan Park. Report stated that no report from the

Transportation Section was on file, but the report referred to the Transportation Section report for Ref. F25A/0553E which stated no objection to that proposal. Report stated the proposed extension of the road from Ballygossan Park is acceptable. Report also stated that as raised by Transportation in the previous application, that boundary treatments should be of reduced height adjacent the road in the interests of sightlines / intervisibility;

- Water & drainage: Report noted the Water Services report which stated that in the context of the very restricted area and the lack of detail of infiltration rates, the surface water proposal for the dwellings was unacceptable. Report also noted that no account was taken of surface runoff from the proposed road. Report also set out additional commentary regarding the applicant's intentions to develop the previous 'masterplan area' to the north submitted with Ref. F25A/0553E, and the potential for piecemeal development and unsustainable drainage arrangement ensuing. Report stated that for permission to be granted the above matters should be addressed by Further Information. Report also noted lack of information regarding Uisce Eireann, and that confirmation of feasibility should also be addressed by Further Information;
- Parks & Green infrastructure: Report noted that details of existing trees along the boundary are not provided, and that no landscape plan is provided. Report also noted Objective DMSO154 in relation to contributions in lieu of open space in smaller developments. Report also referred to Parks Section report in relation to Ref. F25A/0553E which requested a tree survey, arboricultural impact assessment, tree constraints plan, tree protection plan & arboricultural method statement, and that the applicant demonstrate there will be no net loss of biodiversity on the site. Report stated these matters have not been addressed, and that it is unclear how the proposed development could be implemented without causing damage to trees & hedgerows to the north;
- Ground stability: Report noted observers raised concern with ground stability and that this was raised in the previous Planner Report (Ref. F25A0553E), which the subject application does not address;
- Land ownership: Report noted Observer concerns regarding ownership of boundaries. Report stated these are civil matters, however, highlighted

concern the separation distances between the proposed dwellings and boundary treatments could not be achieved and will impact the standard of amenity provided. Report reiterated concerns raised in Ref. F25A/0553E;

- Previous refusal reasons: With the exception of the previously proposed masterplan for adjoining lands the proposal is identical to Ref. F25A/0553E which was refused. The reasons for refusal have not been addressed.

Other Technical Reports

3.2.2. Parks & Green Infrastructure Division: No objection subject to conditions (financial contributions and landscape plan).

3.2.3. Water Services: Further Information. Report stated the surface water proposals for the dwellings is not acceptable; that the proposal did not account for runoff from the road extension; and that all new areas are to incorporate SuDS. Requested the applicant to comment on Ref. F25A/0553 and potential for piecemeal development.

3.2.4. Roads: None received.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. During the planning application 6 no. observers made submission to the Planning Authority. These were: Brendan Muldoon & Sarah-Jane Muldoon; Derek & Brid Hickey; Oisin & Laura Donohue; Patrick & Margaret Haran; Siobhain, Margaret, John & Eli Dent; and Brid Hickey on behalf of 'Ballygossan Park & Cabra Hill Residents'. The latter submission included the names of 26 no. local residents.

3.4.2. The issues raised related to: The development being the same as previously refusal (Reg. Ref. F25A/0553E); inaccuracies in application; boundaries (incl. hedgerows & ownership); design & layout; impact on visual and residential amenity (private views; overbearance; privacy; finishes); private amenity space provision; separation distances; construction, structural safety, & landslip; biodiversity; transportation & access; parking; road safety; and development feasibility / land ownership.

4.0 Relevant Planning History

4.1. Subject site

- 4.1.1. There have been a number of recent applications at No. 1 Cabra Hill:
- 4.1.2. Reg. Ref. F25A/0553E: Planning permission refused by the Planning Authority in 2025 for construction of 2 no. single storey detached dwellings with rear gardens, on-site car parking; creation of a new vehicular and pedestrian access to serve the proposed dwellings via Ballygossan Park, and all associated site works.
- 4.1.3. The layout proposed in that application was very similar to the subject case. The application was refused for 1 no. reason, summarised as follows:
- Overbearing appearance and significant adverse impacts on visual and residential amenities;
 - Failure to protect or compliment the character of the area or take cognisance of the existing architectural form at Ballygossan Park, which it would form part of;
 - Failure to protect the surrounding environment;
 - Failure to demonstrate that future residents will enjoy a high standard of amenity;
 - The submitted 'masterplan' is indicative of the piecemeal nature of the development of the applicant's lands;
 - Applicant did not address previous reasons for refusal;
 - The proposed development would contravene materially the 'RS' land-use zoning objective and Objectives SPQHO38, SPQHO39, DMSO31, DMSO32, SPQHO42, SPQHO43 and Table 14.4 of the Development Plan 2023-2029; and SPPR 1 of the Compact Settlements Guidelines.
- 4.1.4. Reg. Ref. F23A/0733: Planning permission refused by the Planning Authority in 2024 for a single-storey detached split-level dwelling with on-site parking, boundary treatments, proposed vehicle and pedestrian access from Ballygossan Park, Skerries, pedestrian access only from Cabra Hill (laneway), Skerries and all associated site works.

4.1.5. The layout proposed in that application was substantially different to the subject application; two development sites were indicated to the rear of No's. 47-52 Ballygossan Park, with a new dwelling proposed to the rear of No. 41 to 46 Ballygossan Park, closer to the rear of No. 1 Cabra Hill. Permission was refused for 2 no. reasons, summarised as follows:

- Significant adverse impact on visual and residential amenities of adjoining and proposed development;
- Overdevelopment of the plot;
- Haphazard and piecemeal development;
- Proposal would contravene materially the RS zoning objective and Objectives SPQH039, SPQH042 and SPQH043 of the Development Plan 2023-2029;
- Proposal would seriously injure the amenities of property in the vicinity;
- As the development does not demonstrate appropriate emergency access for fire tender and fire brigade appliances, in its current format the proposed development would be substandard in nature and would endanger public safety by reason of a traffic hazard.

4.1.6. Reg. Ref. F23A/0162: Planning permission refused by the Planning Authority in 2023 for a single-storey split-level detached dwelling, parking, boundary treatments, access driveway from existing rear lane, SuDs and all associated site works.

4.1.7. The layout proposed in that application was substantially different to the subject application; a dwelling was proposed to the rear of No's. 42 to 44 Ballygossan Park with the rear garden extending as far as No. 52 Ballygossan Park. The permission was refused for 2 no. reasons, summarised as follows:

- (1) Proposal would result in a significant adverse impact on the visual and residential amenities of the adjoining and proposed development;
- Proposal would result in an overdevelopment of this plot;
- Proposal constitutes haphazard and piecemeal development;
- Proposal would materially contravene the zoning objective for the site, and Objectives SPQH039, SPQH42 and SPQH043 of the Development Plan;

- (2) Proposal would result in the intensification of the existing access off the R128 and endanger public safety by reason of a traffic hazard.

4.2. **Nearby sites:**

Lands to the east within No. 1 Cabra Hill:

- 4.2.1. Reg. Ref. F25A/1140E: Retention permission granted by the Planning Authority in March 2026 at No. 1 Cabra Hill (for modifications to previously approved planning permission Reg Ref: F24A/0514E) consisting of additional demolition, replacement structure, and new glazing within gable elevation of porch.
- 4.2.2. Reg. Ref. F24A/0514E: Planning permission granted by the Planning Authority in 2024 at No. 1 Cabra Hill for: new pitched roof and alterations to fenestration on existing entrance porch to front; new one and two-storey extension to rear, and new detached, partially recessed single-storey flat-roof sensory room and shed to rear.

5.0 **Policy Context**

5.1. **Relevant National & Regional Policy / Ministerial Guidelines**

Sustainable Residential Development & Compact Settlements 2024 and Appendices, including SPPRs 1 – 4;

Nature Based Management of Urban Rainwater & Urban Surface Water Discharges, A National Strategy (Dept. Housing, Local Government & Heritage, 2024);

National Biodiversity Action Plan 2023, including its Objectives and Targets;

Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities 2023;

Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design, Best Practice Interim Guidance Document (Department of Housing, Local Government & Heritage, 2022);

Design Manual for Urban Roads & Streets (DMURS) 2019;

Greater Dublin Regional Code of Practice for Drainage Works V.6, 2010;

Planning System & Flood Risk Management Guidelines 2009;

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 and Urban Design Manual A Best Practice Guide, 2009;
Development Management Guidelines 2007;
Quality Housing for Sustainable Communities Best Practice Guidelines for Delivery Homes Sustaining Communities 2007;
Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031.

5.2. Development Plan

- 5.2.1. The site is zoned 'RS - Residential' in the Fingal County Development Plan 2023-2029.

Objective SPQHO38 'Residential Development at Sustainable Densities': *"Promote residential development at sustainable densities throughout Fingal in accordance with the Core Strategy, particularly on vacant and/or under-utilised sites having regard to the need to ensure high standards of urban design, architectural quality and integration with the character of the surrounding area."*;

Objective SPQHO39 'New Infill Development': *"New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings."*;

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."*;

Objective SPQHO43 'Contemporary and Innovative Design Solutions': *"Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area."*;

Table 14.4 'Infill Development': *"Infill Development Infill Development Infill Development presents unique opportunities to provide bespoke architectural solutions to gap sites and plays a key role in achieving sustainable consolidation and*

enhancing public realms. Proposals for infill development will be required at a minimum to:

- *Provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width.*
- *Examine and address within the overall design response issues in relation to over-bearance, overlooking and overshadowing.*
- *Respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site.*
- *Provide a positive contribution to the streetscape including active frontage, ensuring that the impacts of ancillary services such as waste management, parking and services are minimised.*
- *Promote active street frontages having regard to the design and relationship between the public realm and shopfronts of adjacent properties.”;*

Objective DMSO19 ‘New Residential Development’:

Objective DMSO23 ‘Separation Distance’: *“A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.”;*

Section 14.8.2 ‘Separation Distances’ and Objective DMSO26 ‘Separation Distance between Side Walls of Units’: *“Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units. (Note: This separation distance may be reduced on a case-by-case basis in relation to infill and brownfield development which provides for the regeneration of under-utilised lands and subject to the overall quality of the design and the schemes contribution to the streetscape. A statement demonstrating design mitigation and maintenance arrangements shall be submitted in such cases).”;*

Objective DMSO31 ‘Infill Development’: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the*

physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”;

Objective DMSO32 ‘Infill Development on Corner / Side Garden Sites’;

Objective DMSO54 ‘Financial Contribution in Lieu of Open Space Provision in Smaller Developments’;

Sections 9.5.1.5 ‘Landscape’; 9.6.13 ‘Landscape’; 9.6.14 ‘Landscape Character Assessment’, Policy GINHP25 ‘Preservation of Landscape Types’, and Objective DMSO140 ‘Protection of Existing Landscape’;

5.2.2. Hedgerows

Objectives SPQHO91, GINHP21, DMSO125, DMSO126, DMSO134, DMSO140, and DMSO157. and Sections 14.18.2.4 and 14.18.3;

5.2.3. Appendix 11 ‘FCC SUDS Guidance Document – Green / Blue Infrastructure for Development’;

5.2.4. Other:

C753 The SuDS Manual, Ciria, 2015;

‘A Householder’s Guide to Sustainable Drainage (SuDS), Managing rainfall more naturally in Fingal”.

5.3. **Natural Heritage Designations**

- 5.3.1. North West Irish Sea SPA is approximately 0.71km to the east and Skerries Islands SPA is approximately 1.04km to the east.

6.0 **Environmental Impact Assessment (EIA) screening**

- 6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 & 2 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of First-Party Appeal

7.1.1. A first-party appeal was received from Hugh Planning on behalf of Elaine Smith, the main points of which are summarised as follows:

- Introduction: Previous application (F25A/0553E) was refused; this revised application introduces targeted refinements (strengthened planning justification, alternative boundary treatment incl. retention & reinstatement of hedgerow where appropriate along southern boundary to replace originally proposed 1.8m high capped block wall, and clarification of separation distances). Notwithstanding, the Council again refused on broadly similar grounds;
- Preamble: Site zoned 'RS Residential' where the objective is to provide for residential development and protect/improve residential amenity. When permitting Ballygossan Park the Council required an access point for future residential development on the subject site. Current proposal uses this access and applicant obtained a Letter of Consent from the Council in this regard. Proposal represents logical progression of development of these lands and cannot reasonably be characterised as piecemeal. It is also deliverable independent of any other landholding. A conceptual masterplan for the lands to the north was submitted with previous application. Proposal is well considered, single-storey, and respects the context, safeguards amenity, is appropriately scaled, and provides a quality environment for future residents. Proposal is also an innovative solution on a constrained, infill and services lands. Proposal is also designed to prevent undue loss of amenity to adjoining dwellings;
- Council Decision: Council issued a single refusal reason. The improvements introduced are not fully acknowledged by the Council, and the refined boundary treatments were not meaningfully considered;
- Summary of grounds of appeal: SPPR1 is not triggered as it applies to first-floor windows; proposed development is single-storey with no first-floor windows. The setbacks achieved are more than sufficient. Proposal cannot reasonably be described as overbearing or injurious to amenity. Proposal is modest in scale. Boundaries are appropriate, but without prejudice, the appeal includes

an alternative boundary option comprising a landscaped hedgerow. Proposal is not piecemeal development; when permitting Ballygossan Park the Council required access to this site to be provided. The access is the only practical means of serving the lands to the north and refusing permission will sterilise the site and render the existing access redundant;

- Site Location & Proposed development: Appeal sets out details of proposed development, the site, the area, and planning history. Appeal states the proposal includes all necessary site and infrastructural works including foul and surface water drainage, attenuation tanks, lighting, landscaping, boundary treatments, internal hard landscaping, and associated works. The revised boundaries address the Planning Authority concerns;
- Grounds of Appeal: Appeal states there are minor differences with previous refusal reason, and assumes the Council now considers the proposal accords with Objectives SPQHO38 (density), DMSO32 (infill development standards) and Compact Settlement Guidelines. Appeal notes refusal reason is revised to omit reference to separation distances, architectural form, and conceptual masterplan. Proposal accords with the zoning by delivering housing, and the design is compatible with surroundings. Council appears to favour a design more aligned to Ballygossan Park however those designs do not reflect the variety of the wider context of Cabra Hill. Applicant was not afforded opportunity to address Council concerns through further information. Appellant also remains amenable to reconsideration of materials and finishes;
- Policy Compliance: Appeal sets out details of compliance with local policy and national guidelines, including those referenced in the refusal reason. Appeal states proposed dwellings sit comfortably within the site widths;
- Density: Proposed net density is approx. 29dph. Compact Settlement Guidelines recommend 15–30dph for detached/semi-detached housing. Section 3.3.6(c) of Guidelines allows small infill sites to respond to surrounding scale/form rather than strictly meet density targets. Densities for Key Towns and Large Towns with population greater than 5,000 should be 30-50dph which the proposal is marginally below. Assertion of overdevelopment is unfounded;

- Residential design criteria: Proposed dwellings exceed required floor areas. Proposal provides 2 parking spaces. Regarding cycle parking, appeal sets out requirements of Development Plan and Compact Settlement Guidelines, and states the proposal meets national minimum requirements (6 no.);
- Separation Distances: To the sides of the dwellings, Objective DMSO26 requires 2.3m between side walls but allows for reduced separation distances to side; the Council references separation distances but does not state Objective DMSO26 has been contravened which indicates the proposal complies in this regard. Between opposing windows, SPPR1 requires 16m between opposing habitable windows but allows for reductions. Appeal considers the proposal allows for adequate separation and setback;
- Masterplan: Undue weight placed by Council on indicative conceptual masterplan submitted with previous application for illustrative purposes only;
- Boundary treatments: Originally proposed 1.8m high capped block wall along site boundaries is a standard approach and can be comfortably accommodated. In response to Council concerns, appellant is amenable to amended proposals along the southern boundary comprising a low wall and hedgerows. Minor adjustments could be accommodated by condition. Separation distances of 11.1 and 11.6m would be to the south (Ballygossan Park); 17.2m to No. 5 Cabra Hill; and 96.3m to No. 1 Cabra Hill;
- Site constraints: Appeal sets out points relating to the site constraints and makes point site is vacant and underutilised;
- Overdevelopment: Two single-storey dwellings on serviced, zoned, underutilised infill land does not constitute overdevelopment. Modest single-storey height ensures no overlooking, overshadowing, or overbearing impact. Architectural styles in immediate vicinity are varied; proposal represents a sensitive, context-appropriate contemporary addition;
- Anticipated Development / Masterplan: Conceptual masterplan submitted with F25A/0553E was illustrative only to demonstrate a logical pattern of development could occur across other landholdings should adjoining owners come forward. Council placed undue reliance on it while simultaneously dismissing it as having no value which is considered contradictory &

unreasonable. The masterplan demonstrates the Council's own required access through Ballygossan Park can facilitate future development. The current proposal does not form part of any wider scheme and should not be assessed on that basis. The proposed layout helps to integrate the lands to the north;

- Conclusion: Proposal is compliant with Development Plan zoning and policies, and relevant national guidelines. Refusal reasons not well-founded. Requests the Commission to overturn the Council decision and grant permission.

7.1.2. The appeal includes site photographs and revised architectural drawings.

7.2. Planning Authority Response

7.2.1. The Planning Authority response stated the Authority had no further comment, and in the event that permission is granted requested financial conditions be attached.

7.3. Observations

7.3.1. One Observation was received by the Commission, from Brid Hickey on behalf of Residents of Ballygossan Park and Cabra Hill, Skerries. It is undersigned by 26 no. local residents. I summarised it as follows:

- Introduction: Observation submitted by residents of Ballygossan Park & Cabra Hill. Site has no public road frontage and is backland not infill development. Context is not acknowledged. Description materially understates likely effects;
- Boundary accuracy & measurement reliability: Appeal drawings use the green security fence along the Ballygossan Park interface as the operative site boundary; the submitted Boundary Survey Report by J. Weir Land Surveying Ltd. confirms the true legal boundary is the centre line of the native hedgerow, not the fence. The fence was erected on the Ballygossan Park side of the hedgerow solely to retain and augment it and was never intended to demarcate ownership. The survey identifies discrepancies of approx. 0.64m between the physical hedgerow alignment and folio plan mapping, causing the appeal drawings to systematically overstate distances to adjoining residential curtilages. These discrepancies are not trivial particularly when the applicant relies on minimum separation and setback standards to argue acceptability;

- Drawings: Boundary maps submitted with refused applications F25A/0840E and F25A/0553E show a "kink" along the boundary with No. 5 Cabra Hill and Ballygossan Park, displacing the mapped boundary away from adjoining curtilages and inflating separation distances; no such deviation appears in the earlier applications F24A/0514E or application F25A/1140E, and no survey basis or explanation has been provided for this change. Claimed compliance with minimum separation and setback standards cannot be relied upon;
- Access: The appellant's claim that access via Ballygossan Park constitutes an established / consented residential access is unsupported by the planning history and statutory planning context. Observation makes reference to details in this regard from historical applications and an historical LAP for the area;
- Consent: A letter of consent accompanying F25A/0840E facilitates submission of a planning application; it does not confer ownership, permanent access rights, or entitlement to use Council lands for the proposed development. No maintenance has been conducted by the Council on this area since 2016;
- Boundaries: The Council Parks & Green Infrastructure Division indicate no objection, but qualify this on submission of landscape proposals, boundary treatments and an implementation plan;
- Separation distances, residential amenity & site suitability: The proposed layout results in direct and unduly proximate relationships between ground-floor habitable room windows, rear elevations, boundary treatments and adjoining private gardens, giving rise to unacceptable overlooking, loss of privacy and overbearing impacts. The RS zoning seeks to protect and improve residential amenity. Separation distances and boundary setbacks must be assessed against the suburban character and back-land nature of the site. The appellant relies on minimum building-to-boundary setbacks of approx. 1.2m to 2.3m; these represent basic clearance standards only and do not address qualitative impacts. With the incorrect boundary information the dwellings will be shoe-horned into the site. The form, proximity, boundary walls, roofs and ground level changes will result in overbearing and visually intrusive development;
- Boundaries: The proposed 1.8m high wall will exacerbate impacts. Application refers to the wall but does not identify the precise location. The wall would

extend along the rear of No. 5 Cabra Hill and introduce a visually dominant and incongruous development, and potentially harm mature trees and root systems;

- Separation distances: Reliance on the guideline 16m separation distance is misplaced; it is a general assessment tool and cannot justify development on a severely constrained backland site. The drawings as a whole reveal and consistent pattern of unduly close relationships with adjoining dwellings. Unit 2 is located approx. 10m from No. 5 Cabra Hill, with a side-elevation separation of only approx. 17.2m. Separation distances along the Ballygossan Park interface are approx. 11.6m to Nos. 51/52 and approx. 11.1m to Nos. 49/50 Ballygossan Park; all fall materially short of what would be acceptable in an established suburban setting. Measurements are also inaccurate;
- Habitable rooms: Observer states 3 of the 4 Ballygossan Park dwellings most affected contain principal ground-floor habitable rooms (kitchens & bedrooms), significantly intensifying loss of privacy. These impacts mirror those of previous refusals F25A/0840E, F25A/0553E & F23A/0162 and remain unaddressed;
- Biodiversity, green infrastructure & hedgerow protection: Proposal is contrary to Development Plan regarding biodiversity, green infrastructure, pollinators, species protection, and trees & hedgerows (Objectives GINHO5, GINHP16, GINHP18, GINHP21, GINHO46). Bat and fox activity have been observed in the boundary corridor, indicating a likely commuting/foraging route and wider habitat. No ecological appraisal, bat survey, mammal assessment, arboricultural report, tree survey or mitigation strategy are submitted which precludes the Board from carrying out an informed assessment. The permission for Ballygossan Park required retention and augmentation of the hedgerow with No. 1 Cabra Hill. The hedgerow forms a biodiversity corridor;
- Boundary ownership: The hedgerow along Ballygossan is not wholly in applicant's ownership; any interference would directly affect adjoining lands and third-party property interests. Replacement with walls or fencing would require excavation within root protection areas. The appellant's statement of being "amenable to amending the design" is vague, unsupported and unenforceable;
- Invalidity & inadequacy: The application / appeal is materially identical to previously refused application F25A/0553E; no substantive amendments,

revised layouts or new technical information is submitted to demonstrate how the Planning Authority refusal reasons have been addressed. Re-submission undermines the planning process. The appeal does not meaningfully engage with the refusal reasons. The appeal fails to reference concurrent retention application F25A/1140E relating to the same lands at No. 1 Cabra Hill; it is procedurally inappropriate to pursue concurrent applications on the same site. There has been no permission to subdivide the rear garden of No. 1 Cabra Hill. The absence of a site notice at the Hillside Estate gave rise to limited awareness of the application and undermined public participation;

- Zoning & policies: Observation states the application does not comply with a number of Development Plan and national guideline provisions (Objective DMSO32, SPQHO38, SPQHO39, SPQHO42, SPQHO43 & Table 14.4 of the Development Plan, and SPPRs 1, 2 and 3 of the Compact Settlements Guidelines. Observation sets out details of failure to comply with provisions each, including in relation to density. Observation states the site is within a 'Highly Sensitive' Coastal Landscape (Objective SPQHO42) and that the application fails to address this;
- Private amenity space: Unit 1 is not compliant with SPPR 2 (private open space) in light of the submitted surveyor report, which demonstrates the reduced area available for private open space below minimum standards;
- Access, safety & parking: Proposal does not provide safe, appropriate or sustainable access. The proposed access relies on a constrained shared route with limited visibility, close proximity to dwellings and private gardens, and an absence of clear separation between vehicular & pedestrian movements. Absence of visitor parking will create overspill in Ballygossan Park. Proposed access would necessitate removal of hedgerows & trees. A previous application was refused on the basis that adequate emergency access for fire tender and fire brigade appliances had not been satisfactorily demonstrated; the current appeal does not demonstrate how these concerns have been fully addressed;
- Construction: Works for the access, removal of hedgerows, associated excavation works, give rise to significant concerns regarding soil stability, boundary integrity and environmental protection, including soil slippage,

destabilisation of boundary walls, and damage to adjoining gardens, trees and roots, including the proposed 1.8m boundary wall. No mitigation measures, Construction Management Plan, or environmental or arboricultural reports are submitted. Observer is not satisfied the proposal could be carried out without undue harm to neighbouring property, resident amenity or environment;

- Conclusion: Appeal relies on a selective & fragmented reading of national & local policy, invoking enabling objectives while disregarding protective and qualifying provisions and site-specific constraints central to the proper planning assessment of backland development. The appeal should be dismissed.

7.3.2. The Observation includes photographs of the area and a surveyor's report.

7.4. Further Responses

7.4.1. None.

8.0 Assessment

8.1.1. Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file including all of the submissions received in relation to the appeal; and having inspected the area within and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are as follows:

- Refusal reason;
- Water services;
- Related matters raised in the course of the appeal.

8.2. Refusal reason 1

8.2.1. Regarding the principle of development, the proposal is for two dwellings on lands zoned 'RS Residential'. Residential development is permitted in principle. I am satisfied the proposal is acceptable in principle subject to the considerations below.

8.2.2. Reason 1

Overbearing impacts

- 8.2.3. The refusal reason stated the development would have an undue overbearing impact on neighbouring properties and result in significant adverse impacts on the visual and residential amenities of the area. I consider this relates to the dwellings to the south in Ballygossan Park and No. 5 Cabra Hill to the east.
- 8.2.4. Regarding form, the proposed dwellings are single storey. The roof heights would be approx. 4.1-5.2m at maximum. The roofs would be pitched and would slope away from the dwellings to the south. I consider the size, height, form and scale of each dwelling to be relatively modest and appropriate to the site and surrounding area.
- 8.2.5. Regarding existing dwellings to the south, the dwellings in Ballygossan Park are each part-single, part-2-storey. The single-storey elements are orientated toward the subject site. The dwellings are set back from the site boundary, with their respective rear gardens adjacent the site. No's 51 and 52 Ballygossan Park are set back approx. 9.5m from the boundary, and No's. 48 – 50 are set back approx. 8.5m. This would leave approx. 10.8m and 10.2m respectively between Dwellings No. 1 and Dwelling No. 2 from their respective neighbouring dwellings in Ballygossan Park.
- 8.2.6. Regarding existing dwellings to the east of proposed Dwelling No. 2, No. 5 Cabra Hill is also single storey and is approx. 17.5m away to the north-east. Regarding No. 1 Cabra Hill itself, whilst the rear of the existing dwelling is at a considerably lower level than proposed Dwelling No. 2 (approx. 4m) it would be approx. 95m east of Dwelling No. 2. There are no houses adjacent to the north or west of the site.
- 8.2.7. Regarding ground levels, the submitted drawings indicate that the proposed site levels and the existing levels of the adjacent dwellings in Ballygossan Park and No. 5 Cabra Hill are broadly comparable. I note that the levels of No's. 48-50 Ballygossan Park step down to the east. Having visited the site, and having regard to the submitted drawings, I am generally satisfied that the relationship of the proposed levels to the existing are broadly acceptable and would not contribute significantly in terms of impacts on residential amenities.
- 8.2.8. In summary, having regard to the foregoing, in particular to the height and form of the proposed dwellings, including their single-storey pitched-roof nature, and their proximity to adjacent dwellings to the south and east, whilst I acknowledge the site layout and proximity to adjacent dwellings, I do not consider the proposed development would give rise to undue overbearing impacts.

Boundaries

- 8.2.9. Regrading boundaries, the southern site boundary is indicated as running along the remains of a hedgerow. Adjacent this, to the south, is a steel fence. There are also a variety of other boundary treatments in the rear gardens of the dwellings in Ballygossan Park to the south of the fence.
- 8.2.10. The application indicates that much of the remains of the hedgerow would be removed and a 1.8m high capped block wall would be constructed. I consider that the remainder of the hedgerow is of very limited biodiversity, amenity or landscape value, with only the hedgerow bank and some small trees remaining. I consider that the proposed wall would provide for the protection of existing and proposed residential amenities more than the remaining hedgerow, and would support development of the site in line with the zoning objective.
- 8.2.11. Regarding set back from adjacent boundary, Dwelling 1 would be set back approx. 1.34m at minimum from the southern site boundary, and Dwelling 2 by approx. 1.69m at minimum from the southern site boundary. This is in addition to the proposed boundary walls, and provides for access both sides of each dwelling. I consider the distances between the dwellings and site boundaries are acceptable.
- 8.2.12. I note the points made by the Observer to the Commission in this regard, including the submitted surveyor report and related points from an historical LAP for the area and related requirements for the retention of hedgerows. I am satisfied that the development as proposed is broadly acceptable in this regard, including the removal of the parts of the remaining hedgerow and small trees to facilitate the development, and that the proposal generally complies with the relevant provisions of the Development Plan, including Objectives SPQHO91, GINHP21, DMSO125, DMSO126, DMSO134, DMSO140, and DMSO157 in relation to hedgerows.
- 8.2.13. I consider that should the Commission be minded to grant permission, a condition should be attached for the agreement of landscaping and boundary details.
- 8.2.14. I note the Observer's points regarding works to and ownership of the remaining hedgerow, I address those matters below.
- 8.2.15. Regarding boundaries on the north, east and west, the boundary to the north of the site comprises new hedge planting. There is no boundary to the east of the site within the rear garden of No. 1 Cabra Hill. The western boundary comprises a

mature hedgerow which is to be retained. I consider the proposed 1.8m high walls along these boundaries are acceptable in the interests of residential amenity.

- 8.2.16. In summary, I am generally satisfied with the proposed arrangement, and consider that the development as proposed would not give rise to undue overbearing impacts or undue negative impacts on residential amenities, subject to standard conditions.

Visual impact

- 8.2.17. In relation to visual impacts, the proposed single storey dwellings would be approx. 1.3m lower in height than the adjacent part-1 and part-2-storey dwellings in Ballygossan Park. They would be marginally taller than the existing building to the east within the rear garden of No. 5 Cabra Hill, which is indicated as being approx. 0.2m lower in height. Whilst the subject site and surrounding development are in an elevated location in the wider area, the proposed dwellings would be at a comparable ground level and scale to the neighbouring dwellings, and I consider would sit reasonably well alongside them when viewed from a distance. The existing buildings in the area comprise a mix of pitch-roofed and flat-roof structures. The proposed dwellings would be pitched roofed. Details of materials, finishes and boundaries are indicated. Overall I do not consider the proposed development would give rise to undue adverse impacts on the visual amenities of the area.

Neighbouring residential amenity

- 8.2.18. Further regarding impact on residential amenities, I note again the distances of the proposed dwellings to Ballygossan Park and the proposed layouts. There would be 4 no. windows in the southern elevation of each dwelling at ground floor, as well as a skylight in the southern plane of each roof. The ground floor windows in the southern elevations would be to an office, bathroom, utility and w.c. The existing boundary fence is indicated to be retained. The proposed wall would extend almost to eaves level and as such would screen the existing and proposed dwellings from each other. The roof light would be to the lobby. Given the foregoing, I do not consider undue detrimental impacts in terms of overlooking or privacy would arise. I am satisfied Development Plan Objective DMSO23 is not directly applicable in this case.
- 8.2.19. In this regard points made by Observers in relation to Compact Settlement Guidelines SPPR1 generally that the proposed ground floor windows to habitable rooms being within 16m infringes SPPR 1. SPPR1 states that there shall be no

specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and applications shall be determined on a case-by-case basis to prevent undue loss of privacy.

Resident amenities

- 8.2.20. Regarding the referenced restricted back-land nature of the site and the plot width, the site width is approx. 11.5m, which well exceeds the plot widths of the adjacent dwellings in Ballygossan Park. The proposed dwellings are laid out to match the dimensions of the existing garden site. Side passages are proposed either side of each dwelling. I note that none of the adjacent dwellings in Ballygossan Park have side passages. Whilst the site is in the rear garden of an existing dwelling, the garden is what I would characterise as exceptionally long, and has the benefit of being accessible from the adjacent road to the south. In principle I do not consider the nature of the site or plot width warrants refusal.
- 8.2.21. Regarding future resident amenity specifically in relation to the proposed distances to the site boundaries, I note the proposed distances to the side boundaries are indicated as ranging from approx. 1.2 - 1.6m. Access to the rear gardens both sides of each dwelling would be possible for residents, including for bins, cycles and buggies. Regarding internal amenity, I acknowledge that the proposed dwellings are single-storey and as such the proximity to the site boundaries does have a more significant impact on bedrooms in terms of, for example, outlook and natural light, than for a typical 2-storey dwelling. Whilst the Planner Report raised concern with non-habitable rooms along the southern boundary and the amenity of internal habitable rooms along the northern boundary, I consider the proposed layout has had regard to these factors. In this regard the kitchen/dining/living space, office, and bedroom no. 1 are generally dual aspect. Non-habitable rooms are generally located centrally within the proposed dwellings. This is with the exception of bedrooms no's. 2 and 3 which would be north facing and be single aspect. I also note the proposed block wall boundaries, and proximity of the proposed windows to same. I have had regard to the provisions of the Development Plan and national guidelines in this regard. On balance, given the land use zoning of the site; the site dimensions; and the form and layout of development in the area, I consider the proposed form and layout is acceptable and would provide for a reasonable level of internal residential amenity. I also consider that conditions for the addition of roof lights to the proposed

bedrooms no. 2 and 3 of each dwelling is reasonable in the interest of resident amenity.

- 8.2.22. I also note the distances between the proposed dwellings and the proposed road, as well as between the proposed dwellings and their respective rear boundaries. I note concerns raised in the Planner Report regarding Dwelling 1 in this regard. Given the land use zoning of the area, and the existing and proposed layouts, I consider the proposed dimensions, layout and garden dimensions are acceptable.
- 8.2.23. Further regarding distances to the site boundaries, the Development Plan sets out detailed provisions in this regard. Section 14.8.2 states that a separation distance of at least 2.3 metres should be provided between the side walls of each house in order to allow for adequate maintenance and access. Objective DMSO26 reiterates this requirement but does not include the stated rationale. A note is included in the Objective which states that this separation distance may be reduced on a case-by-case basis in relation to infill and brownfield development which provides for the regeneration of under-utilised lands and subject to the overall quality of the design and the schemes contribution to the streetscape. The site is an infill site on residentially zoned land, with bedrooms at ground floor adjacent the side boundaries. I am satisfied the scheme would establish a reasonable streetscape and that points in relation to design and access arrangements are provided. Whilst the proposed development does not meet the 2.3m stated, I am satisfied that space is provided on both sides of each dwelling for adequate maintenance and access, and generally complies with the provisions of the Development Plan in this regard.
- 8.2.24. Regarding the standard and quality of residential development overall, I have had regard to the provisions of the Development Plan and national guidelines, including in relation to room sizes, private amenity space, quality and amenity. In general I am satisfied the development proposed is acceptable and generally complies with the provisions of the Development Plan, subject to conditions as set out above.

Summary

- 8.2.25. Having regard to the foregoing, based on the available information and the provisions of the Development Plan and national guidelines, I consider the proposed development is in general acceptable and compliant with the land use zoning objective for the area, and the relevant provisions of the Development Plan and

national guidelines. I have had regard to the proposed form, scale and layout, and the relationship of the development to adjacent dwellings, and overall I do not consider the development would have an undue overbearing impact on neighbouring properties or result in significant adverse impacts on visual and residential amenities in the area, subject to conditions as set out above.

Previous reasons for refusal

- 8.2.26. The refusal reason stated the applicant did not address the previous reason for refusal issued under Ref. F25A/0553E. That application was refused on similar grounds, with the addition of grounds related to the masterplan for lands to the north of the site submitted with that application. I acknowledge there are relatively minor alterations to the proposed design and layout compared to that previously proposed, however I am satisfied the applicant has addressed the previous refusal reason.
- 8.2.27. I note the Planner Report in the subject case stated the application did not fully address a number of other points raised in the previous application. The matters raised included internal amenity, overdevelopment, the restricted nature of the site, biodiversity (tree survey, arboricultural impact assessment, tree constraints plan, tree protection plan & arboricultural method statement), ground stability, boundary ownership, and masterplanning of adjoining lands to the north. These matters were not given as reasons for refusal in either application. I address those matters in this report insofar as they are relevant to the subject case.
- 8.2.28. The Planner report and Observer to the Commission also reference earlier applications (Refs. F23A/0733 and F23A/0162). I consider the layouts proposed in those applications were substantially different, however a number of similar grounds for refusal arose in those applications (overbearance, form, residential and visual amenities, piecemeal development, and material contravention), however additional grounds were also given (emergency access, overdevelopment, and intensification of the R128 to the east). I am satisfied that the comparable issues arising in the subject case have been appropriately dealt with in this report.

Revised proposal

- 8.2.29. The appeal includes revised proposals. The revisions relate mainly to the treatment of the southern boundary. The revised proposal (Drw. 22-126-PL5-03 submitted with the appeal) provides for the reinstatement of the remaining hedgerow along the

southern boundary. Capped block walls (1.8m high) are indicated along the eastern, western and northern site boundaries. The appeal also refers to construction of a low wall along the southern boundary, however this is not clearly indicated in the submitted plans.

8.2.30. I note the provisions of the Development Plan in relation to hedgerows, in particular Section 9.5.1.1, 9.6.8, 9.6.9, 14.12.3, 14.18, 14.18.2.4, 14.8.3, Policy GINHP21, and Objectives DMSO125, DMSO126, DMSO134, DMSO140. Given the nature of the remaining hedgerow and the layout of the area and proposed development, I consider the reinstatement of the remaining hedgerow and omission of the 1.8m wall, and the ensuing impacts on residential amenity would be a cause for concern. I consider that removal of the relevant sections of remaining hedgerow and the construction of a 1.8m wall would align more closely with the land use zoning objective for the area, and would provide for a better balance between the provision of residential development and protection of residential amenities. Accordingly I do not consider that the revised proposal as submitted at appeal is appropriate.

Material Contravention

8.2.31. Notwithstanding the foregoing, the refusal reason stated the proposal would **materially contravene** the 'RS' land-use zoning objective, Objectives SPQHO39, SPQHO42, SPQHO43, DMSO31 and Table 14.4 of the Development Plan.

8.2.32. **Section 37(2)(a)** of the Planning & Development Act 2000 as amended provides for the Board/Commission in determining an appeal to grant permission even if the development contravenes materially the development plan. Section 37(2)(b) states that where a Planning Authority has decided to refuse permission on grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph 37(2)(a) in specific circumstances. As such Sections 37(2)(a) & (b) should be applied in this case.

8.2.33. I have considered the proposed development against the criteria of subsection (b) of Section 37(2). I summarise my considerations in this regard as follows:

- (i) I do not consider the proposed development is of strategic or national importance on account of its scale and nature;

- (iii) I do not consider permission for the development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government. In this regard, having reviewed the relevant provisions and documents in this regard I see no grounds to grant permission on this basis;
- (iv) I do not consider permission for the development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan. In this latter regard I see no significant changes to the pattern of development in the area since the making of the plan. In this regard I note permission for retention of works to the rear of No. 1 Cabra Hill was granted in March 2026.

8.2.34. In relation to criterion (ii) (“there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned”), I have had due regard to the provisions of the Development Plan, including those the Planning Authority decision stated would be contravened materially by the proposed development, including the ‘RS’ land-use zoning objective, Objectives SPQHO39, SPQHO42, SPQHO43, DMSO31 and Table 14.4. I am broadly satisfied that there are so substantially conflicting objectives in the development plan or that the objectives are not clearly stated, insofar as the proposed development is concerned.

8.2.35. In this regard I note in relation to Section 14.8.2 ‘Separation Distances’ and ‘Objective DMSO26 ‘Separation Distances between Side Walls of Units’ a discrepancy in relation to the wording of these provisions in relation to the stated rationale of the required separation distance. I am satisfied however that the rationale for the requirement is reasonably clear.

8.2.36. In summary, the Planning Authority decision stated the proposed development would contravene materially the ‘RS’ land-use zoning objective, Objectives SPQHO39, SPQHO42, SPQHO43, DMSO31 and Table 14.4 of the Development Plan. In this regard I consider the following:

- The land use zoning objective for the area is to provide for residential development, and protect and improve residential amenity. As set out above, I am satisfied the proposed development provides a reasonable balance in resolving each element of the objective;
- Objective SPQHO39 applies to infill development, and states that infill development shall respect the height and massing of existing residential units, and shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings. I acknowledge points made within the Observations as to whether the proposed development constitutes infill development, and the loss of trees, hedgerows and landscaping that is stated would occur. However, insofar as is practicable for redevelopment of the site, I am satisfied the proposed development generally complies with this Objective;
- Objectives SPQHO43 and DMSO31 seek to promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area. As set out above I am broadly satisfied the proposed development complies with this objective, including having regard to the proposed form of the dwellings which I consider resolves the differing building designs to the south and east, and puts forward an innovative design in response to the specific site and context and varying character of the area.

8.2.37. I have had due regard to relevant case law. The referenced policies, objectives and provisions refer to general approaches to development and are not, in my view, sufficiently specific so as to justify the use of the term “materially contravene” in terms of normal planning practice. However, similarly I do not consider the term materially contravene has been clearly used inappropriately. As such whilst I reach a different conclusion to the Planning Authority I consider The Commission should consider itself constrained by Section 37(2) of the Act.

8.2.38. Having regard to the foregoing, and to the provisions of the Planning & Development Act Section 37(2) and the related interpretations in case law by the Courts, I am satisfied the Commission should not grant permission for the proposed development.

8.2.39. Regarding the revised proposals submitted with the appeal, as set out above these relate mainly to revised boundary treatments. As above I consider the revised

proposal would give rise to detrimental impacts in terms of residential amenity, and I do not consider it addresses the grounds given in the Planning Authority reason for refusal. Accordingly, given the wording of the refusal reason, including in relation to contravening materially the land use zoning objective on grounds of the restricted nature of the site, plot widths, the dwelling designs, proximity to boundaries, and overbearing impacts, I consider the Commission should not grant permission for the proposal as revised at appeal.

8.2.40. In the interests of completeness I address below the outstanding matters raised in the appeal.

8.3. Water Services

- 8.3.1. Permission was not refused on grounds of water services, however the Water Services report recommended further information. The report stated the surface water proposals for the dwellings were not acceptable, and that the proposal did not account for runoff from the road extension. It stated that all new areas were to incorporate SuDS and requested the applicant to comment on Ref. F25A/0553 and the potential for piecemeal development in relation to lands to the north.
- 8.3.2. The application included a proposed drainage layout (Drw. No. 22-126-PL5-03). The application indicated the proposal is to connect to an existing public sewer/drain, however no details or proposed connections are shown. The referenced drawing indicated that all on-site surface water is to be disposed by permeable pavement and an infiltration system referred to in 'Detail A' of that drawing. The same drawing provides a section of the permeable pavement infiltration system. The relevant area is indicated within the plans and generally corresponds to the proposed parking area.
- 8.3.3. The appeal provides no additional information in this regard.
- 8.3.4. Regarding the proposed dwellings, rear gardens are proposed for both dwellings, to be finished in grass. Additional areas of planting are proposed. The two side passages and rear patio for each dwelling are indicated to also be finished in paving.
- 8.3.5. Regarding the road, the referenced area of road and footpaths would extend to some 104sqm. The road would serve the two proposed dwellings, but is laid out to offer access to the residential lands to the north. The road would connect to the existing road to the south.

- 8.3.6. Within the application and appeal the road surface treatment or cross sections are not shown. No engineering report or related drainage calculations are provided, including for the proposed infiltration systems for the dwellings. No assessment of ground conditions including available infiltration within the site are provided. I note the restricted nature and dimensions of the site and topography of the area and road.
- 8.3.7. I acknowledge the points made within the Water Services report and the shortcomings of the submitted surface water drainage information for the short section of road, and the lack of supporting details in relation to the proposed SuDS features. However I am satisfied these matters could be addressed by on-site sustainable urban drainage features, including within the road, and that refusal in these regards is not warranted. I consider that should the Commission be minded to grant permission that submissions in this regard be sought from the appellant.
- 8.3.8. Foul drainage is to connect to the existing mains connection for No. 1 Cabra Hill. The application indicates the proposal will also connect to a new connection to the existing public mains water supply. No submission for Uisce Eireann is on file. Given the nature and scale of development, I consider that standard conditions relating to foul drainage and water supply connections are appropriate.
- 8.3.9. Regarding lands to the north, the Water Services report recommended the applicant comment on Ref. F25A/0553 and potential piecemeal development. I do not consider the applicant/appellant has clearly addressed this matter. Whilst the subject application proposes a road linking Ballygossan Park to the lands to the north, I consider that there is a lack of detail in relation to the potential for water services connections across the subject site should they be required. I consider it reasonable that the applicant address this matter. Should the Commission be minded to grant permission I consider that submissions in this regard be sought from the appellant.
- 8.3.10. Having regard to the foregoing, and to the relevant provisions of the Development Plan, and relevant national and local guidance, I am satisfied refusal in these regards is not warranted.

8.4. Related matters raised in the course of the appeal

Access

- 8.4.1. The Planning Authority did not refuse permission in this regard. A report from the Roads Section of the Authority is not recorded. The Planner Report generally stated no objection in these regards. The report flagged issues in relation to the previous application on the site regarding the height of boundary treatments fronting the road.
- 8.4.2. I note the points and concerns raised in the Observations on file, and the letter of authorisation for the making of the application from the Council.
- 8.4.3. The site comprises the end of a long back garden. Part of the internal road network in Ballygossan Park terminates adjacent the site boundary. The proposed layout seeks to extend the road across the site to provide access to the two dwellings. The proposed dwellings would each be accessed directly off the proposed road extension, with parking to the front. There would be space for vehicles to turn. The layout would enable access for the neighbouring site north. The footpaths on both sides of the road in Ballygossan Park would be extended across the site. Parking for No's. 50 and 51 Ballysgossan Park sit adjacent the boundary, either side of the existing road. The proposed dwelling accesses would be over 20m from the junction in Ballygossan Park. There is a slope down to the south toward the junction. I am satisfied reasonable visibility would be available, and that the proposed dwellings would have a modest impact on the traffic and vehicular movements in the area. I am further satisfied that emergency services vehicle access would be available.
- 8.4.4. Having regard to the foregoing, I am generally satisfied with the proposed arrangements. I consider that conditions should be attached to ensure the completion of the road as proposed up to the adjoining landholding to the north; and for to ensure the appropriate provision of public lighting; and for taking in charge.

Lands to the north

- 8.4.5. I note points made in the Planning Authority internal reports and Observations in relation to the lands to the north, piecemeal development, and a masterplan submitted as part of the previous application on the site. As set out in the Planner report this matter relates to the development potential of the subject site and a number of rear gardens to the north which the existing road within Ballygossan Park and the section of road through the site would provide access to. In the previous application on the site the applicant submitted what they referred to as a conceptual masterplan showing how the lands to the north might be accessed and serviced. It

indicated a layout showing dwellings within the respective rear gardens to the north of the site, and a road alignment serving each through the subject site. That masterplan is not included with the subject application. Given the arrangement of landholdings in the area, the pattern of development, and the proposed layout in the subject application, I am broadly satisfied the proposal provides the potential to access and service the lands to the north, subject to the attachment of standard conditions regrading completion of the proposed road to the northern boundary.

Open space and landscaping

- 8.4.6. I note the points made within the Parks report and Observations. Regarding landscaping, I have addressed boundaries above. I consider the proposed development is in general acceptable subject to the attachment of the standard condition for the agreement of boundary and landscaping details.
- 8.4.7. Regarding open space, I note the points made in the Parks and Planner reports, including in relation to contributions in lieu for open space in line with Development Plan Objective DMSO54. The report states that 175sqm of public open space is required for the site. I consider that a condition in this regard is acceptable.

Overdevelopment

- 8.4.8. I note Observer concerns in this regard. I have reviewed the provisions of the Development Plan and national guidelines. Given the existing and proposed site layout; the single-storey nature of the proposed dwellings; the road through the site; and the pattern of development in the area, I am satisfied that the proposed development would not constitute overdevelopment.

Ground stability

- 8.4.9. I note the Observer concerns in this regard. Having visited the site, and having regard to the existing and proposed works and site levels, I have no concerns regarding ground stability within and around the site.

Habitats & biodiversity

- 8.4.10. The Observer stated that bat and fox activity has been observed in the area. No evidence of bat activity on the site is provided. I note the proposed development would involve the removal of much of what remains of a hedgerow and some small trees, and, to the north, approx. 75m of recently planted hedging. The Observer also

states that the hedgerows form a continuous biodiversity corridor. I note the relatively extensive tree growth on lands adjacent to the west and also the gardens further north. As set out above, I consider that the remaining hedgerow is of very limited biodiversity, amenity or landscape value. Having regard to the foregoing, in particular to the nature of the remaining hedgerow, I consider the proposed development is generally acceptable, including in relation to Objectives SPQHO91, GINHP21, DMSO125, DMSO126, DMSO134, DMSO140, and DMSO157 regarding hedgerows.

Land ownership

- 8.4.11. I note the points made by Observers regarding ownership of the remaining hedgerow along the southern site boundary, including in relation to a 'kink' along the boundary shown in some of the submitted red and blue lines. I note again the points made in the surveyor report provided by the Observer. For clarity, I see nothing in the surveyor report to conclusively demonstrate that the applicant does not have ownership or control of the lands proposed for development.
- 8.4.12. Ballygossan Park is taken in charge.
- 8.4.13. The applicant submitted a site location map showing red and blue line boundaries (Drw. 22-126-PL5-01). The applicant also submitted a layout map referenced in the submitted Planning Authority letter of consent (Drw. 22-126-PL5-CL-01). I note that the red and blue lines are drawn differently in the two drawings. I consider that the 'kink' in the blue line shown on Drw. 22-126-PL5-01 as referenced by the Observer arises from how the applicant has shown both lines on the one drawing. I am satisfied the application red line as shown in Drw. 22-126-PL5-CL-01 tracks the remainder of the hedgerow and not the fence along Ballygossan Park. I note the lands indicated in these maps as being taken in charge by the Council and as relating to the Council authorisation appear to extend past the fence to the remaining hedgerow. I note variations in the base maps used in the applicant drawings.
- 8.4.14. Having visited the site, the northern extent of Ballygossan Park, and the extent of the rear gardens adjacent in Ballygossan Park, are marked by a steel mesh fence. Additional boundary treatments and planting within the rear gardens of the Ballygossan Park houses sit to the south of this fence. The road within Ballygossan Park ends at the steel fence. North of the fence, the application red line appears to run along what remains of the hedgerow.

- 8.4.15. For the purposes of granting planning permission I see no evidence on file to indicate the applicant does not own or control the extent of land indicated within the red line area required to facilitate the proposed development, including in relation to the remaining hedgerow. As set out above, I am satisfied the remaining hedgerow is of limited biodiversity, amenity or landscape value, and that removal of the parts indicated to facilitate the proposed development is acceptable and generally complies with the provisions of the Development Plan, subject to standard condition for the agreement of landscaping and boundary details with the Planning Authority.
- 8.4.16. Regarding the legal status of lands within and adjacent the red and blue line areas, Section 34(13) of the Planning & Development Act as amended states that a person shall not be entitled solely by reason of a permission to carry out any development. For the purposes of planning permission, I am satisfied that, on balance, there is no legal impediment to the Commission granting permission in this regard, subject to standard condition for agreement with the Planning Authority.

Previous reasons for refusal

- 8.4.17. In addition to the previous reason for refusal on the site (Ref. F25A.0553E), the Planner Report makes a number of points relating to matters raised in the previous applications on the site which the report states the applicant in the subject case has not addressed. I am satisfied that the pertinent issues relevant to this case have been satisfactorily addressed above. I note that a number of those matters were not raised by the Planning Authority internal report in the subject case (emergency access, overdevelopment, and intensification of the R128 to the east) and were not included as reasons for refusal in either the subject application or the previous applications on the site. I further note that access to the R128 does not arise in this case. I have addressed emergency access and overdevelopment above.

Conditions

- 8.4.18. In addition to the foregoing, should the Commission be minded to grant permission I also consider the following:
- Materials and finishes: Details of finishes are provided which I consider to be acceptable and generally meet the requirements of the Development Plan. I do not consider that a condition relating to materials and finishes is warranted;

- Public lighting: Given the existing road network, the topography of the area, and the distance from the proposed dwellings to the existing lighting network within Ballygossan Park, I consider that a condition for the agreement of lighting for the proposed development, including road, is warranted;
- Naming & numbering: Standard condition;
- Operational waste: Standard condition;
- Construction management: I note the points made within the Planner Report and Observations on file, including in relation to ground stability. I note the proximity of adjacent dwellings, and the need to route construction traffic through existing residential development. I consider that a standard condition for the agreement of a construction management plan is necessary, to include agreement of details for construction traffic management;
- Boundaries: I note points made in the Planner Report in relation to construction impacts on trees and hedgerows raised in the Parks Section report on a previous application on the site (Ref. F25A.0553E). Such concerns are not raised in the Parks Section report in relation to the subject case. I am satisfied that matters relating to boundaries can be addressed by the agreement of a landscape and boundary plan;
- Management & maintenance: Standard condition;
- Completion: I consider that a condition is warranted to ensure completion of the proposed road to the northern boundary of the site;
- Part V: None;
- Commercial housing: Standard condition;
- Contributions: Standard Section 48.

9.0 **Appropriate Assessment screening**

- 9.1.1. Refer to Section 8 and Appendix 2 of this report.
- 9.1.2. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other

plans or projects would not be likely to give rise to significant effects on any European Sites including the North West Irish Sea SPA and Skerries Islands SPA in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on the nature of the proposed works and the location and distance from nearest European site and lack of connections.

10.0 Water Framework Directive

10.1.1. The subject site is located approx. 284m south-east of the Mill Stream. The proposed development comprises 2 no. dwellings. No water deterioration concerns were raised in the planning appeal. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively, or otherwise jeopardise any water body in reaching its WFD objectives. The reason for this conclusion is as follows: The nature of works e.g. small scale and nature of the development, and the location-distance from nearest Water bodies and/or lack of hydrological connections. I conclude that on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1.1. I recommend permission be **Refused**, for the reasons and consideration below.

12.0 Reasons and Considerations

Having regard to the provisions of the Fingal County Development Plan 2023-2029, and the decision of the Planning Authority which stated that the proposed development would materially contravene the 'RS' land-use zoning objective, Objectives SPQHO39, SPQHO42, SPQHO43, DMSO31 and Table 14.4 of the Development Plan; and having regard to the provisions of Section 37(2) of the Planning & Development Act 2000 as amended, it is considered that the Commission should not grant planning permission for the proposed 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.-

Dan Aspell
Planning Inspector
30th June 2026

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	PL-500381-DF-25
Proposed Development Summary	Construction of 2 dwellings with all associated site works
Development Address	Lands west and to the rear of No. 1 Cabra Hill, Skerries, Co. Dublin
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	
	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ 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?	
☐ 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. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(i) Construction of more than 500 dwelling units.
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)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** __ 23rd June 2026 __

Form 2: EIA Preliminary Examination

Case Reference	PL-500381-DF-25
Proposed Development Summary	Construction of 2 dwellings with all associated site works
Development Address	Lands west and to the rear of No. 1 Cabra Hill, Skerries, Co. Dublin
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development	Proposed development comprises 2 no. dwellings in suburban area. The proposed development has a modest footprint, comes forward as a standalone project, requires minimal demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.
Location of development	The development is located in a suburban area within a residential garden. The receiving location is not particularly environmentally sensitive and is removed from sensitive natural habitats, designated sites and identified landscapes of significance in the County Development Plan. The site is not of historic or cultural significance. Given the scale and nature of development and mitigation proposed there will be no significant environmental effects arising.
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of 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.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
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.
There is a real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: 23rd June 2026 _____
 DP/ADP: _____ Date: _____