



Development

Permission for the demolition of dormer bungalow and construction of a residential development comprising a terrace of 4 by three storey four bedroomed houses, a pair of semi-detached three storey four bedroomed houses and a pair of semi-detached two storey one-bedroom houses, vehicular and pedestrian access roadway off Kinsealy lane, ancillary and associated site works necessary to facilitate the development.

Location

Kinsealy Lane, Kinsealy, Malahide, Co. Dublin,

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F25A/0943E

Applicant

Garvskinsealy Property Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse planning permission

Type of Appeal

First Party v Decision

Appellant

Garvskinsealy Property Ltd.

Observer(s)

Seven

- 1) Orla Egan and Declan Barnes
- 2) Jonathan and Abigail Cullen
- 3) Jennifer Dowling
- 4) Paul Keating and Aaron
McGrane
- 5) Jeremiah Kelleher
- 6) Christine Walsh & Robert
Timmins
- 7) Alicia Timmins

Date of Site Inspection

2nd day of April 2026

1.0 **Site Location and Description**

- 1.1 The appeal site has a stated area of 0.214 hectares. and is located on the western side of Kinsealy Lane, Kinsealy, Malahide, c. 2.1 kilometres south-west of Malahide village and approximately 370 metres south of the southern boundary of Malahide Castle and Demesne.
- 1.2 The appeal site is broadly rectangular in shape and comprises a red bricked dormer dwelling on a generous plot of land which is vacant at present with its front elevation facing towards Kinsealy Lane. There is an attached garage located to the front of the site and a number of outbuildings located along the northern site boundary. There were a number of boats stored within the rear garden area. The garden is overgrown with mature trees along the western and southern site boundaries. The appeal site is bound by Kinsealy Lane to the east, a recently constructed housing development, Oak Park immediately to the north, a dormer dwelling immediately to the south of the subject site and a single storey bungalow to the west of the subject site.
- 1.3 Site boundaries comprise a two metre tall Laurel hedgerow along the eastern (roadside) site boundary, mature trees along the southern and western site boundaries and a block boundary wall (ranging in height from approximately 1.4 to 1.8 metres) to the north backing onto the Oak park residential development. The appeal site is mainly hard surfaced (concreted) with grass areas to the north-east, north, west and south of the site comprising the private amenity area associated with the dwelling. The topography of the site is consistent with that of the adjoining public road and the neighbouring residential properties. There is a public footpath and streetlighting along the public roadside boundary.

2.0 **Proposed Development**

- 2.1 The development as proposed would comprise the following.
- Demolition of dormer dwelling,
 - Construction of eight residential units in the form of a terrace of 4 no. three storey four bedroomed houses, a pair of semi-detached three storey four

bedroomed houses and a pair of semi-detached two storey one-bedroom houses,

- Vehicular and pedestrian access roadway off Kinsealy lane,
- Ancillary and associated site works necessary to facilitate the development.
- works.

2.2 The planning application was accompanied by the following reports/studies.

- Planning Cover Letter.

2.3 The Planning Authority carried out an Appropriate Assessment (AA) screening exercise and concluded 'the Planning Authority cannot conclude that the proposed development, either alone, or in combination with other projects would not have any direct or indirect significant effects on any European sites. Screening for Appropriate Assessment is a requirement of the Fingal Development Plan 2023-2029 under Objective DMSO1'

2.4 The Planning Authority carried out an Environmental Impact Assessment (EIA) screening exercise and concluded that the 'proposed development does not meet the requirement for sub-threshold EIA as outlined in Section 103 of the Planning and Development Regulations 2001, as amended. No Environmental Impact Assessment (EIA) is, therefore, required'.

3.0 **Planning Authority Decision**

3.1 The Planning Authority issued a Notification of Decision to refuse planning permission on the 5th day of December 2025 for three reasons. The three refusal reasons were set out as follows:

1-The proposed development, by virtue of substandard architectural design and layout, including the internal layout of dwellings and lack of landscaping proposals, would be injurious to the visual amenities of the area, would fail to provide a satisfactory level of amenity for future residents which would be contrary to objectives DMSO19 and DMSO26 and materially contravene the RS zoning objective for the site in the Fingal County Development Plan 2023-

2029, set an inappropriate precedent for other similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.

2- The Planning Authority is not satisfied based on the information submitted, that adequate arrangements would be in place to serve the development in terms of access, road layout and parking provision, public lighting, foul and surface water drainage and water supply. The proposed development would, therefore, fail to provide a satisfactory standard of development which would be injurious to the amenities of future residents and the area, would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

3-The Planning Authority is not satisfied, based on the information submitted, that the proposed development would not be likely to result in significant effects on Natura 2000 sites. The Planning Authority is, therefore, precluded from granting planning permission for the development.

3.2 Planning Authority Reports

Planning Report

The report of the Planning Officer generally reflects the issues raised within the three refusal reasons.

The Planning Officer considered that notwithstanding the planning rationale presented by the applicants that the design and layout would not be acceptable, would not accord with the underlying residential land use zoning objective pertaining to the subject site, nor specific objectives DMSO19 and DMSO26 within the current Fingal County Development Plan (FCDP) in relation to new residential developments standards and separation distances between gable flanks of dwellings within residential developments, in relation to the absence of information regarding access, roads layout, parking, public lighting and piped services to serve the residential development and that the applicants had failed to demonstrate that the development would not be likely to adversely impact the conservation objectives of the adjacent Natura 2000

sites, namely the Malahide Estuary SPA and the North Malahide Estuary SAC.

The report of the Planning Officer recommended a refusal of planning permission consistent with the Notification of Decision which issued.

3.3 Other Technical Reports

Water Services Section - Additional information requested regarding surface water drainage and soakaway details.

Transportation Planning Section – Additional information requested regarding the dimensions of car parking spaces, deficit of bicycle parking spaces and details of sightlines at the entrance point.

Parks and Green Infrastructure Division-Department– Additional information sought regarding boundary treatment within the site, the absence of a landscaping plan and what is to become of the existing mature trees within the subject site.

Housing Department-Additional information sought regarding the submission of Part V proposals.

Architects Department- Additional information requested regarding the submission of a Design Statement and details of compliance in relation to separation distances between gable fanks of dwellings and that the dwellings would comply with the current Building Regulations.

Public Lighting- Additional information requested regarding the public lighting to be used within the site and along the boundary with Kinsealy lane.

3.4 Prescribed Bodies

None received.

3.5 Third Party Observations

The report of the Planning Officer states that twelve third party observations were received by them in relation to the development proposals. The main issues raised within the third-party observations are as follows:

- Additional traffic would be generated by the proposals onto Kinsealy Lane.
- The proposals do not comply with the current Fingal County Development Plan objectives in relation to infill development.
- That the proposals would adversely impact neighbouring residential amenities by reason of overshadowing, overlooking, overbearance, and separation distances from neighbouring dwellings.
- The applicants have failed to submit a design statement supporting their proposed scale, design, and layout of development.
- The design of the proposals is substandard and out of character in this area.
- No landscaping or screening proposals have been submitted. It is unclear what would happen to the existing mature trees on site and whether they would be retained or removed under the proposals?

4.0 **Planning History**

Appeal Site:

Planning Authority Ref. F14A/133– Planning Permission granted for the demolition of existing dwelling and garage on site and for the construction of three detached dwellings, individual driveway entrances and ancillary site works.

Lands in Vicinity

Planning Authority Ref. F19A/0557 and ABP reference number 306640-20 Permission granted for a residential development comprising 48 residential units, comprising a mix of detached, semi-detached and terraced units and all ancillary and associated site works. This permission has been enacted and comprises the 'Oak Park' residential development recently completed and located immediately north of the appeal site.

Planning Authority Ref. no's 05A/1666/1667 -Permission granted for the construction of detached dormer dwellings and associated site works on two sites on opposite (eastern) side of Kinsealy lane. These dwellings are in situ.

5.0 Policy Context

5.1 Development Plan

The Fingal County Development Plan (FCDP) 2023-2029 came into effect on the 4th day of January 2023 and is the relevant Development Plan.

Malahide is designated as a 'Self-sustaining town' within the County Settlement Strategy. The Core Strategy estimates that the population range in Fingal will grow by between 37,980 persons and 62.980 persons and the population within the County will grow to a figure of between 334,00 and 359.000.

The appeal site is zoned 'Residential' (RS) under the Fingal County Development Plan 2023 – 2029, with an objective 'to provide for residential development and protect and improve residential amenity'. The vision for RS lands is 'To ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.

The appeal site is located within the Dublin Airport Noise Zone C.

The provisions within the Fingal County Development Plan 2023-2029 considered relevant to this assessment are as follows:

Chapter 2-Planning for Growth-Core Strategy, Settlement Strategy

Policy CSP1 – Core Strategy

Promote and facilitate housing and population growth in accordance with the overarching Core Strategy to meet the needs of current and future citizens of Fingal

Policy CSP14 – Consolidation and Re-Intensification of Infill/Brownfield Sites

Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects. Policy

CSP15 – Compact Growth and Regeneration

Support the implementation of and promote development consistent with the National Strategic Outcome of Compact Growth as outlined in the NPF and the Regional Strategic Outcome of Compact Growth and Regeneration as set out in the RSES.

Objective CSO17 – Mixture of House Types

Promote high quality residential development which meets the needs of all stages of the life cycle through an appropriate mix of house type and local amenities.

Policy CSP19 – Compact, Sequential and Sustainable Urban Growth

Promote compact, sequential and sustainable urban growth to realise targets of at least 50% of all new homes to be built, within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other metropolitan settlements, with a focus on healthy placemaking and improved quality of life.

Policy CSP34 – Consolidate Growth of Self-Sustaining Towns

Consolidate the growth of Self-Sustaining towns including Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries as set out in the Settlement Strategy for RSES and by encouraging infill development and compact growth rather than greenfield development and by intensification at appropriately identified locations.

Chapter 3-Sustainable Placemaking and Quality Homes

Policy SPQHP35 – Quality of Residential Development

Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high-quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 and the accompanying Urban Design Manual – A Best Practice Guide and the Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2020) and the policies and objectives contained within the Urban Development and Building Heights Guidelines (December, 2018). Developments should be consistent with standards outlined in Chapter 14 Development Management Standards.

Objective SPQHO31 – Variety of Housing Types

Encourage the creation of attractive, mixed use and sustainable residential communities which contain a wide variety of housing and apartment types, sizes, tenures and typologies in accordance with the Fingal Housing Strategy, the HNDA with supporting community facilities, amenities and services.

Objective SPQHO36 – Public open Space

Public open space provision in new residential developments must comply with the quantitative and qualitative standards set out in Chapter 14 Development Management Standards.

Objective SPQHO37-Residential Consolidation and Sustainable Intensification.

Policy SPQHP38 – Compact Growth, Consolidation and Regeneration

Promote compact growth in line with the NPF and RSES through the inclusion of specific policies and targeted and measurable implementation measures that: "

- Encourage infill/brownfield development,

- Focus growth on the County's designated strategic development areas identified in the Metropolitan Area Strategic Plan,
- Promote increased densities along public transport corridors.

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

Chapter 8-Dublin Airport

Table 8.1 Aircraft Noise Zones

Within Noise Zone C:

A noise assessment must be undertaken in order to demonstrate good acoustic design has been followed. The noise assessment must demonstrate that relevant internal noise guidelines will be met. This may require noise insulation measures. An external amenity area noise assessment must be undertaken where external amenity space is intrinsic to the development's design. This assessment should make specific consideration of the acoustic environment within those spaces as required so that they can be enjoyed as intended. Ideally, noise levels in external amenity spaces should be designed to achieve the lowest practicable noise levels. Applicants are strongly advised to seek expert advice

Chapter 14, includes development management standards and guidelines, the following are of particular relevance to this assessment:

- Objective DMSO1-Screening for Appropriate Assessment,
- Objective DMSO2-Screening for EIA,
- Objective DMSO5-Design Statement,

- Section 14.5.1-Achieving consolidation

-Table 14.3-Brownfield Opportunities and Regeneration

The Planning Authority will seek to ensure that the following parameters are incorporated into proposals for the redevelopment of brownfield sites, regeneration sites and areas of renewal to ensure consolidated development in Fingal's town and village settlements.

- Encourage development which provides for a quality design aesthetic which respects and enhances its context and integrates with its surroundings.
- Development proposals shall respect the architectural character of their surroundings and contribute to the enhancement of the public realm.
- Encourage utilisation of brownfield sites within the built-up footprint of existing settlements.

- Table 14.4: 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.

- Section 14.6-Design criteria for residential development,
- DMSO19-New residential development,
- DMSO20-Schedule of accommodation,
- DMSO21-Floor plans for residential development,
- Section 14.6.5-Open Space Serving Residential Development
- Table 14.6-Open Space Categories Open Space

Public open space is accessible to the public at large and in general is intended to be 'taken-in charge' by the Local Authority, but in certain circumstances may be privately managed. Appropriate provision must be made for public open space within all new developments. In all instances where public open space is not provided a contribution under Section 48 will be required for the short fall. (Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply).

- Section 14.8-Housing Development Standards
- Sectio 14.8.1-Floor Areas,
- Section 14.8.2-Separation Distances,

A minimum standard of 22 metres separation between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres. However, where sufficient alternative private open space (e.g. to the side) is available, this may be reduced – subject to the maintenance of privacy and protection of adjoining residential amenities

- 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)

- Section 14.8.3-Private open space

Table 14.8-Private Open Space for Houses

House type Minimum open space

3 bedrooms or less 60 sq. m.

4 or more bedrooms 75 sq. m

- Objective DMSO28 – Minimum Private Open Space Provision for Townhouses

Allow a reduced standard of private open space for one and two bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. In no instance will the provision of less than 48 sq. m of private open space be accepted per house.

- Section 14.10-Development of infill housing on underutilised infill and corners sites in established residential areas will be encouraged. Proposals must be cognisant of the prevailing pattern of development, the character of the area and where all development standards are observed....Contemporary design is encouraged and all new dwellings shall comply with Development Plan standards in relation to accommodation size, garden area and car parking.

Objective DMSO32 – Infill Development on Corner / Side Garden Sites

Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:

- Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.
- Consistency with the character and form of development in the surrounding area.

- Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
- Ability to safeguard the amenities of neighbouring residential units.
- Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
- Provision of side/gable and rear access arrangements, including for maintenance.
- Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.

Section 14.13-Open space

Table 14.12: Recommended Quantitative Standards (Sustainable Residential Developments in Urban Areas, Guidelines for Planning Authorities 2009)

Land use	Minimum public open space standards Overall
New residential development	
on greenfield sites/LAP lands	12% - 15% of site area
New residential development	
on infill/ brownfield sites	12% of site area

- Objective DMSO53 – Financial Contribution in Lieu of Public Open Space

Require minimum open space, as outlined in Table 14.12 for a proposed development site area (Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply) to be designated for use as public open space. The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision for the acquisition of additional open space or the upgrade of existing parks and open spaces subject to these additional facilities meeting the standards specified in Table 14.11. Where the Council accepts financial contributions in lieu of open

space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space.

5.2 National Policy

National Planning Framework 'Project Ireland 2040'-First Revision- 2025

- The NPF sets out a targeted pattern of growth for Eastern and Midlands Region of 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million;

Relevant Policy Objectives include:

- National Policy Objective 7 Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth⁸⁴.
- National Policy Objective 8 Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 12 Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being
- National Policy Objective 43: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 45: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

Section 4.4-Key Indicators of Quality Design and Placemaking

Responsive Built Form- Placing an emphasis on the creation of a coherent urban structure and design approach that responds to local character and is attractive.

- New development should respond in a positive way to the established pattern and form of development and to the wider scale of development in the surrounding area. The height, scale and massing of development in particular should respond positively to and enhance the established pattern of development (including streets and spaces).
- The urban structure of new development should strengthen the overall urban structure and create opportunities for new linkages where possible.
- Buildings should generally present well-defined edges to streets and public spaces to ensure that the public realm is well-overlooked with active frontages.
- New development should embrace good modern architecture and urban design that is innovative and varied, and respects and enhances local distinctiveness and heritage.

SPPR 1 - Separation Distances. It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level.

SPPR 2 - Minimum Private Open Space Standards for Houses. It is a specific planning policy requirement of these Guidelines that proposals for new houses meet the following minimum private open space standards:

- 1 bed house 20 sq.,

- 2 bed house 30 sq.,
- 3 bed house 40 sq.,
- 4 bed + house 50 sq.

Semi-private open space is distinct from public open space. While there is no requirement to provide semi-private open space for a house, these Guidelines provide an option under SPPR 2 to provide semi-private open space in lieu of private open space as part of a more flexible design approach. Semi-private spaces shall be for the exclusive use of the residents of a housing development and be directly accessible and integrated into the development. They should be secure and usable spaces with a range of suitable landscape features to meet the needs of intended residents.

Policy and Objective 5.1 - Public Open Space

It is a policy and objective of these Guidelines that statutory development plans include an objective(s) relating to the provision of public open space in new residential developments (and in mixed-use developments that include a residential element). The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances.

5.3. Ministerial Guidelines

Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Design Manual for Urban Roads and Streets (2019).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.

5.4 Natural Heritage Designations

- North Malahide Estuary SAC (Site Code: 000205) is located approximately two kilometres north of the appeal site.

- Malahide Estuary SPA (Site Code: 004025), is located approximately two kilometres north of the appeal site

5.5 EIA Screening

Refer to Form 1 in Appendix 1 at the end of this report. Class 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.

Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

5.6 Water Framework Directive Screening

The subject site is located along Kinsealy lane approximately two kilometres south of the settlement of Malahide. The subject site is located approximately two kilometres inland (west) of Malahide Estuary and approximately 300 metres north-east of the Hazelbrook Stream which connects to Baldoyle Bay approximately three kilometres downstream.

The development seeks permission for the demolition of a dwelling and the construction of eight residential units, and all associated site works in its place.

I have assessed the development 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 and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, relatively modest scale and location of the project, I am satisfied that it can be eliminated from further assessment as I consider there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- the relatively modest scale and nature of the development,
- the distance from the nearest water bodies and the absence of hydrological connections.

Conclusion

I conclude that on the basis of objective information, that the development would 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.

6.0 The Appeal

6.1 Grounds of Appeal

A first party appeal submission was received by the Coimisiún. The issues raised within the appeal submission are in response to the refusal reasons set out within the Planning Authority decision and also address a number of matters specifically raised within the Planning Authority Report prepared by Fingal County Council. The issues raised in the appeal can be summarised as follows:

Principle of Development:

- The proposal is consistent with national planning policy as set out within the National Planning Framework (NPF, as revised in 2025) in terms of supporting national strategic outcomes including compact growth.
- National Policy Objective 3 seeks to support increased population and household growth within the footprint of existing settlements, targeting the five cities and their suburbs for increased population and household growth.
- National Policy Objective 6 seeks to regenerate and rejuvenate cities through increased residential population and employment, enhanced levels of amenity

and design quality to sustainably influence and support their surrounding area.

- The Sustainable Residential Development and Compact Settlement Guidelines (SRDCSG's) for PA's sets out that in order to achieve compact growth greater support for more intensive use of existing buildings and properties...more intensive use of previously developed land and infill sites in addition to the development of sites in locations served by existing facilities and public transport.
- The appeal site has the benefit of a residential land use zoning objective.

Design and Layout:

- The Council's internal assessment recognises that the proposed dwellings comply with the SRDCSG's for PA's for minimum standards,
- The Development Plan provides for a financial contribution in lieu of open space provision. Objective DMSO53 specifically provides for a financial contribution in lieu of public open space requirements.
- The issue of boundary treatment and the absence of a landscape plan are matters that could be addressed by means of an appropriate planning condition.
- The PA set out that the development would breach objective DMSO19- relating to new residential development. No part of the Council's internal assessment suggests that the proposal fails to comply with the requirements which are set out in national planning policy documents.
- Objective DMSO26 in relation to separation distances between the flanks of dwellings sets out that 2.3 metres should be provided between the side walls of detached, semi-detached and end of terrace units. However, the Planning Officer fails to highlight the final clause in DMSO26 which sets out that this separation distance may be reduced on a case-by-case basis in relation to infill and brownfield development sites

- The first refusal reason states that ‘substandard architectural design’ as a key concern however, the planning assessment fails to articulate this same concern
- The Planning Reports sets out that in the absence of a design statement, the PA cannot establish that all design principles and concepts have been carefully considered and yet the Planner states that the ‘proposal appears repetitive, lacks distinctiveness, representation and details of high-quality materials and finishes’.
- The proposed development is similar in character to a scheme recently permitted by an adjoining Planning Authority and is of a type permitted by many different PA’s nationwide.
- The PA’s assessment does not identify any individual or particular architectural element of the development which is offensive. It would, therefore, be inappropriate for the Coimisiún to place weight on this concern.
- The Architect’s Department within FCC highlighted issues in relation to compliance with the Building Regulations, however, it is inappropriate to deal with matters which the subject of separate codes outside of planning.
- Minimum separation distances of 16 metres serving habitable rooms at the rear/side of houses above ground floor is achieved as per SPPR1 as set out within the SRDCSG’s.
- The assertion of the Planning Authority that the proposal represents ‘overdevelopment’ is at variance with the provisions of SPPR1 within the SRDCSG’s.
- The location of internal storage within a dwelling is not supported by any statutory requirement.
- An open plan living/kitchen /dining room space is not in breach of any statutory standard. Government planning policy endorses combined kitchen/living/dining spaces.

- The Coimisiún could omit the third bedroom as a sleeping space if it considered it would be in breach of the internal room measurement standards,
- There are no statutory requirements which would prohibit the use of an attic space as a bathroom. The requirement for the provision of a window within a bathroom space is not supported by any statutory code.
- The criticism of House type B as being ‘very poor’ is unreasonable when offering an open plan, kitchen/living/dining room comprising an area of 23.5 sq. m.
- The issue of canopies over the front door areas is one that could be addressed by means of an appropriate planning condition.

Services and Access:

- The second refusal reason does not relate to any disadvantages associated with the development, but the availability of infrastructure to cater for the proposal.
- The appeal site is accessed off Kinsealy lane, a properly constructed and line marked local road flanked on both sides by public footpaths.
- Both the Local Authority and the Coimisiún have accepted that Kinsealy Lane can accommodate residential development.
- The subject site is located within a 50 kilometre per hour speed control zone.
- The Transportation Section within Fingal County Council (FCC) considered that the issues raise could be addressed by means of a further information request and were not so grave as to recommend a refusal of planning permission.
- The need for a Road Safety Audit is superfluous given the location of the subject site within a built-up area characterised by residential development with a 50 km/h speed control zone.

- Public lighting is a matter that could be addressed by means of an appropriate planning condition.
- The local area is serviced in terms of having access to public watermains and foul water networks. GIS mapping from UE to this effect has been submitted.
- The issue of storm/surface water management could be addressed by condition as it was in relation to the residential proposals previously permitted by FCC within the subject site under planning reference D14A/0233.

Other Issues:

- The applicants' first preference for addressing their Part V social and affordable housing obligation would be to make a financial contribution to cover the cost of off-site social and affordable homes, a matter that could be addressed by means of an appropriate planning condition.
- A noise impact assessment was not required or requested by FCC or the Coimisiún within their assessment of the previous residential proposals within the subject site or during their assessment of residential proposals on neighbouring sites. Therefore, it is not reasonable to expect that a Noise Impact Assessment (NIA) be submitted in this instance.
- A Construction and Environmental Management Plan is a matter that could be addressed by means of an appropriate planning condition.
- An Appropriate Assessment screening report has been submitted by the applicants as part of their appeal submission in response to the PA's third refusal reason. This screening concludes that no features of ecological importance would be likely to be adversely affected by the proposed development.

6.2 Planning Authority Response

The Planning Authority issued a response to the first party appeal submission outlining the following:

- The substandard architectural design and layout would fail to provide a satisfactory level of amenity for future residents and would be contrary to objectives DMS19 and DMSO26 and materially contravene the RS residential zoning objective for the site as set out within the current Fingal County Development Plan (FCDP) 2023-2029.
- The applicant has failed to demonstrate that the development, either alone or in combination with other plans/projects would not have any direct or indirect significant effects or upon any European sites contrary to DMSO1 within the current FCDP.
- The applicant has failed to submit an adequate level of information in relation to transport, landscaping, water services, public lighting and Part V and the demand for additional housing cannot outweigh the requirements of the policies and objectives of the FCDP.
- The provision of well-planned high-quality proposals for housing should be paramount in the delivery of sustainable outcomes.
- The Coimisiún is requested to uphold the decision of the Planning Authority

6.3 Observations

Seven observations were received from neighbouring residents. Many of the issues are similar to those raised within the submissions received by the Planning Authority. However, a number of other matters were raised within the observations received by the Coimisiún and include the following:

- The development fails to comply with many objectives within the current FCDP including the absence of a Design Statement supporting the design approach submitted, failing to adhere to the twelve criteria set out within the Urban Design Manual, resulting in poor street frontage and a scheme which would be out of character in this area.
- Objective DMSO23 is breached in terms of not achieving minimum separation distances.

- Overlooking of the neighbouring residential properties to the north of the subject site would arise from the proposed three storey dwellings.
- No assessment in terms of sunlight/daylight, overlooking or overbearance has been provided by the applicants. The proposals would result in visual intrusion and a loss of amenity and privacy for neighbouring dwellings.
- No visual impact assessment or photomontages have been provided by the applicants to demonstrate that the proposals would be appropriate within the local streetscape. No landscape proposals have been submitted.
- The applicants have failed to demonstrate a high-quality of placemaking or a relationship to the character of the established local built environment
- The proposals would be incongruous with and out of character with the surrounding built environment.
- Objective DMSO118 within the FCDP is breached as no transport assessment or visibility splays have been provided within the documentation submitted. The proposals would result in the creation of a serious traffic hazard.
- Fingal County Council were not satisfied that the proposals adhered to a number of its development management objectives within the current FCDP.
- The vision within RS zoned lands seeks to enhance existing residential amenity, the current proposals do not comply with this vision.
- The residential amenity of future residents would be compromised by the design approach adopted.
- No surface water management proposals have been submitted.
- The applicants have chosen to ignore the wide range of issues raised by the Planning Department in its assessment and by the observers and states that these issues could be addressed by condition, an approach that the Office of the Planning Regulator cautions against.

7.0 **Assessment**

7.1 The main issues are those raised within the grounds of the first party appeal, the Planning Report and decision of the Planning Authority and the issues raised within the observations received by the Coimisiún and I am satisfied that no other

substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Density, Design and Layout
- Access and traffic.
- Other Issues.
- Appropriate Assessment

7.2 Principle of Development

7.2.1 Within the Settlement Strategy of the current Fingal County Development Plan (FCDP) 2023-2029 Malahide is designated as a self-sustaining settlement. Self-sustaining settlements are identified as centres of population experiencing 'high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and which require targeted 'catch up' investment to become more self-sustaining'. The subject lands are zoned RS within the FCDP where the objective is '*To provide for residential development and protect and improve residential amenity*'. The vision for RS lands is '*To ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*'.

7.2.2 Section 14.5.1 of the FCDP relates to 'achieving consolidation' and that 'infill development opportunities or gap sites between existing buildings of varying extent also offer opportunities to consolidate existing development and to enhance streetscapes' Table 14.4 regarding infill development sees out that '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 and that schemes might 'respect and complement 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'.

7.2.3 The subject site in its current forms includes a dormer dwelling and attached garage that is stated to have been constructed during the 1970,s on a generous plot size stated to comprise 0.214 hectares. Table 14.3 references brownfield opportunities and regeneration and these will be specifically addressed within Section 7.3 below, in relation to design and layout. It is stated that such development would be subject to the usual development management standards as set out within Chapter 14 of the FCDP including high quality design. Therefore, the principle of developing the brownfield site is acceptable subject to a suitable design and layout being presented, an appropriate quantum and quality of private and public open space being provided, that access, parking, piped water services are available and that neighbouring residential amenities are not adversely impacted upon. Appropriate Assessment is another matter that needs to be addressed. These are matters that will all be addressed within the assessment below.

7.2.4 I acknowledge the context of the appeal site lands, which are located along an established residential street (Kinsealy Lane) which has seen development of residential schemes including the adjacent Oak Park and Castleway developments to the north and north-east of the subject site and smaller infill residential schemes and the established character of the area is residential. I consider from a sequential perspective, the appeal site would be suitable for development, given its residential zoning status and given that it adjoins established residential development. The current County Development Plan provides for development of the site given its zoning and, therefore, is not constrained by Core Strategy provisions.

7.2.5 In conclusion, the current proposals, located on an underutilised brownfield infill site on residentially zoned and serviced lands, would provide for additional housing units, as provided for within the Core Strategy. Therefore, I consider, the current proposals would be appropriate in principle and would be consistent with the provisions of the Core and Settlement Strategies within the current County Development Plan.

7.3 **Density, Design and layout**

Density:

- 7.3.1 The current proposal relates to the demolition of an existing dwelling and the construction of eight dwellings within the site which comprises a stated area of 0.214 hectares. A residential density of 37.4 residential units per hectare is, therefore, proposed.
- 7.3.2 The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) provides guidance in respect of the density of residential development at different locations/scales. Table 3.1 (Area and Density Ranges Dublin and Cork City and Suburbs) provides three density ranges. In my opinion, the 'City – Suburban/Urban Extension' range is the most relevant typology to the appeal site. This typology is described as including: 'Suburban areas are the lower density car-orientated residential suburbs constructed at the edge of cities in the latter half of the 20th and early 21st century, while urban extension refers to the greenfield lands at the edge of the existing built up footprint that are zoned for residential or mixed-use (including residential) development⁸. It is a policy and objective of these Guidelines that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin and Cork, and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8)'
- 7.3.3 There is presently no public bus service serving Kinsealy Lane, the nearest bus route being located along the Malahide Road, located approximately one kilometre west of the subject site, where there is a regular bus service linking the settlement of Malahide to the city centre and vice versa. I note that Table 3.8 within the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) refers to locations within 500 metres walking distance of an existing or planned Bus Connects 'Core Bus Corridor' stop. I note that the appeal site is outside this range. In this regard, I note that the appeal site is located in an area where there is an emerging pattern of higher density development, most notably to the immediate north and north-east of the subject site within the Oak Park and

Castle Way residential developments. I also note that the appeal site is not sensitive from an ecological perspective.

7.3.4 SPPR 4 (1) of the Urban Development and Building Heights: Guidelines for Planning Authorities (December 2018) provides that 'is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure - the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) have replaced the Sustainable Residential Development in Urban Areas (2007) Guidelines and in this regard, I consider that the density ranges set out in Table 3.1 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) is, therefore, the appropriate guidance in this instance.

7.3.5 The developable area of the site is stated as 0.214 Ha. and on the basis of a proposal for 8 no. residential units, the resultant density is c. 37.4 dwellings per hectare (dpha). In my opinion the appeal site is analogous with the 'Suburban/Urban Extension' range as set out at Table 3.1 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) and as such I consider that the principle of a density of 37.4 dpha is acceptable at this location. However, density aside, the applicants are also required to address matters in relation to design, layout, open space, servicing, traffic and residential amenity considerations which will be included within the assessment below.

7.3.6 The applicants have stated within their appeal submission that the design approach adopted in one that was accepted by an adjoining Planning Authority for a development site within a settlement within its jurisdiction and that the design and layout is similar to ones which have been permitted by many Planning Authorities throughout the Country. Therefore, this would indicate that the design and layout as presented is not bespoke nor site-

specific having regard to the specific characteristics and dimensions of the subject site. I note that the applicants have submitted a photographic image (as part of their appeal submission) of the scheme permitted by an adjoining Planning Authority and clearly illustrates the characteristics of that particular site being very different to those of the subject site. The site referenced by the appellants, based on the image presented within their appeal statement, illustrates that site as backland, being located to the rear at least two other dwellings and not having limited street frontage. Therefore, I am not satisfied, based on the information submitted that the dwelling design as presented in this case is site specific/ bespoke nor utilises the specific characteristics, unique to the subject site and would be contrary to the DMSO5 objective as set out within the current Fingal County Development Plan 2023-2029

7.3.7 The applicants are proposing to demolish the existing 1970.s dormer dwelling and to construct a terrace of 4 no. three storey dwellings, a pair of semi-detached three storey dwellings and a pair of semi-detached two-storey dwellings. The applicants have not submitted a design statement demonstrating how the urban design criteria have been incorporated within the design and layout and how the development accords with the relevant Development Plan objectives, the submission of photomontages, landscape plans, high-quality open space and details of finishing materials. in accordance with objective DMSO5 within the current Fingal County Development Plan 2023-2029. The principle of a three-storey dwelling is acceptable in this instance and would not be inappropriate where many of the adjoining residential units are two storeys in height. However, I would make the following observations in terms of the design approach adopted. The public notices state that the three storey units would be four bedroomed units however, the floor plans as submitted illustrate that these units would all have three bedrooms. The end dwelling units (facing east), those facing towards Kinsealy lane, namely unit numbers 6 and 8 are designed as blank gable ended dwellings facing towards the streetscape along Kinsealy Lane and are lacking in active street frontage and animation as viewed from the public domain. The applicants have failed to incorporate any active frontage in the form of a dual fronted design approach for these units that would address

Kinsealy lane and provide for an improved architectural expression at the entrance to the development. A dual fronted design approach within unit number 7 would also provide for improved passive supervision overlooking the area of semi-private open space located to the south-west of the site.

7.3.8 I also note that no photomontages or computer-generated images (CGI's) of the proposed development in context of the neighbouring residential development have been provided. One contiguous elevation drawing was submitted, however the detail provided within same is of limited value in terms of providing a comprehensive overview of how the proposals would integrate with the existing established and contiguous development along Kinsealy Lane.

Private and public open space

7.3.9 Section 14.6 within the current Fingal County Development Plan (FCDP) sets out standards for private open space required to serve residential units. The FCDP states that a minimum of 75 square metres (sq. m) is required for four bedroomed houses and a minimum of 60 sq. m for dwellings of up to three bedrooms. The Development Plan states that a minimum of 48 sq. of private open space is required for all dwellings. I also note that the Sustainable Residential Development and Compact Settlement Guidelines (SRDCSG's) 2024, under SPPR2 2024 provide for updated private open space standards whereby a minimum of 40 sq. m is required for three bedroomed dwelling units. Based on the information submitted as per the site Layout Plan (drawing number 7562-01, the tree storey three bedroomed houses, namely unit's no's 1-6 inclusive provide for between 40 sq. m and 111 sq. m and would accord with the SPPR 2 Standards. The 2 no. one bedroom units provide for in excess of 20 sq. m of private open space and again would accord with the SPPR2 private open space standards as per the SRDCSG standards.

In terms of public open space, The FCDP sets out within Section 14.6 that a minimum of 15% of site area should be set aside as public open space on greenfield sites and a minimum of 12% of site area on brownfield sites. The

subject site is considered to constitute a brownfield one, given that there is an existing dwelling within its bounds. Policy and objective 5.1 within the SRDCSG,s sets out the following 'The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances'. Based on the information submitted as per the Site Layout Plan (drawing number 7562-01), the applicants have identified an area of semi-private public open space comprising a stated area of 96 sq. m to the south-west of the site. This would equate to approximately 4.5 % of the total site area. which is considerably below the required standard as set out within Section 14.6 of the FCDP and within policy objective 5.1 within the SRDCSG;s. The applicants within their appeal submission reference DMSO53 in relation to levying a shortfall in public open space provision, given the proximity of the subject site to Malahide Demesne and Castle. The nearest entrance to Malahide Demesne and Castle is located approximately 420 metres north of the subject site.

However, on balance, I note that the applicants have not specifically identified any private open space as per the Site Layout Plan (drawing number 7562-01) within the subject site and only a modest area (96 sq. m) of semi-private open space. The SRDCSG's state that a minimum of 10% of the net site area shall be for public open space save in exceptional circumstances'. I consider that the public open space provision within the subject site is severely deficient, in quality and quantum, the semi-private open space by virtue of its disposition is detached from the proposed dwellings, is only directly overlooked by 2/3 of the proposed residential units and is not directly accessible from any of the dwellings without having to cross the internal access road. Based on the information submitted, there are no plans to introduce a shared surface space within the internal access road which would slow traffic down, allowing for ease of access to the semi-private open space and provide a higher level of amenity for residents within the development to recreate. The applicants have failed to demonstrate a clear plan-led planning rationale in order to justify levying a shortfall in public open space provision in

accordance with objective DMSO53 within the current Fingal Development Plan.

Overall, I consider that the quality, quantum and disposition of private and public open space would not be in accordance with objectives DMSO5, DMSO19 and DMSO49 within the current Fingal Development Plan in terms of providing for high quality open space and quality new residential development, providing permeable and accessible open spaces in accordance with National Housing Design Standards, and would provide for a substandard quality of residential amenity for future residents within the development. I consider that the design and layout as presented would result in permitting a substandard form of development, would be contrary to objectives DMSO,s 5, 19 and 49 within the current FCCP 2023-2029 and Policy Objective 5.1 within the Sustainable Residential Development and Compact Settlement Guidelines and, therefore, would be contrary to the proper planning and sustainable development of the area.

Residential Amenity:

7.3.10 A number of the planning observations received by the Coimisiún from residents of the neighbouring residential development, immediately north of the subject site contend that their amenities would be adversely impacted upon by reason of overshadowing and overlooking from the above ground floor windows and that separation distances of 22 metres as set out within the current Fingal Development pan are not achieved in this instance.

The applicants contend that the proposed development would not adversely affect the residential amenities of the adjacent residential properties. I will address each in turn.

Overlooking:

SPPR 1 within the Sustainable Residential Development and Compact Settlement Guidelines (SRDCSG's) sets out that 'when considering a planning application for residential development, separation distances of at least 16 metres between opposing windows serving habitable rooms at the

rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. The proposed layout building as submitted to the Planning Authority (Drawing number 7562-01-Site layout Plan demarcates the specific separation distance from the north (rear) elevation of dwelling numbers 6 and 4, as achieving the 16-metre separation distance to the rear elevation of the dwellings within the adjoining Oak Park residential development. I am satisfied that the other 4 units, namely unit no's 1-3 and unit number 5 would also be a minimum of 16 metres distant and, therefore, comply with the standards as set out within SPPR1. Unit numbers 7 and 8 back onto the existing residential property immediately to the south of the subject site. However, I note that in this instance the rear of the proposed dwellings would back onto a side elevation of the adjoining dwelling to the south and, therefore, the provisions of SPPR1 would not specifically apply in this instance. However, the residential amenity of the neighbouring residents will be considered in a more general context, having regard to the vision associated with the underlying land use zoning objective which pertains to the site and requires that that development 'any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.

At present there are mature trees located along the western and south-western site boundaries. The applicants have failed to submit any landscaping/boundary treatment proposals in accordance with objective DMS072 within the FCDP 2023-29. I note that within the Site Layout plan, they state that one tree along the southern site boundary would be removed and that three trees within the eastern part of the site would be retained under the proposals. However, there are many more existing mature trees in existence within the site boundary, and the applicants have failed to specify if the remaining mature trees would be retained or removed under the current proposals. From the Site Layout Plan submitted, it is likely that at least some of the mature trees along the western site boundary would be removed in order to allow for the footprint of unit number 1 to be developed. DMS070 requires the replacement of trees where trees are being removed from within a site. These details would be important in this instance in terms of providing

for a comprehensive assessment and I consider that, the retention of the mature trees would assist in minimising the visual and overlooking potential towards the existing established dwellings to the west and south of the site. Based on the information submitted and in the absence of detailed landscaping/boundary treatment proposals, including an arborist report, that the proposal would be contrary to policy objectives DMSO70 and DMSO72 within the current FCDP 2023-29 and would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the separation distances concerned. I am satisfied that the proposed development (as submitted to the Planning Authority) would not result in significant overlooking of the dwellings within the neighbouring Oak Park or their rear garden spaces. I note that a number of the appellants reference DMSO23 where a 22-metre separation distance between above ground floor windows is required, however this standard has since been superseded by SPPR1 within the SRDCSG's where minimum separation distances of 16 metres from above ground floor opposing windows is deemed acceptable.

The prevailing building heights along Kinsealy Lane are largely single and two storeys in height and I consider the introduction of two and three storey residential units on an underutilised, brownfield site on residential zoned and serviced lands to be acceptable.

Overshadowing:

The applicant did not submit a Shadow Analysis Study of the proposed development. From a review the information submitted, and having regard to the east-west orientation of the proposed development. In this instance, I consider that the proposed development would not present any significant extent of overshadowing of the adjoining dwellings or their rear garden spaces by virtue of the separation distances between the dwellings, the relatively low ridge height proposed at a maximum ridge height of 8.23 metres, the hipped nature of the proposed roof design and the east-west orientation, I do not consider the extent of overshadowing would be significant. In summation, I

consider the proposed development to be acceptable in terms of overshadowing.

Overbearance:

As noted above, the dwellings as submitted to the Planning Authority are located c. 6.2 metres from the site boundaries of the adjacent Oak Park residential development. Having regard to the hipped roof design, relatively low ridge height proposed and the separation distance to the dwellings within Oak Park I am satisfied that the proposed development would not result in significant overbearance of the dwellings within the adjoining Oak Park development

7.4 Access and Traffic

7.4.1 The third-party appellants raised issues in relation to traffic safety during the construction phase of the proposed development but also during the operational phase of the development. The applicants did not submit a Traffic Report (TR) or a Road Safety Audit (RSA) Stage 1 as part of their planning documentation. However, the applicants within their appeal submission state that the development would be sub-threshold in terms of the requirements to submit either of the technical documents.

7.4.2 I note that the appeal site along the Kinsealy Lane is located within the 50 kilometre per hour speed control zone and that there are public footpaths located along both sides of Kinsealy Lane. I acknowledge that there is no cycle lanes located at any point along Kinsealy Lane. However, having regard to the relatively modest scale of the development proposed, whereby an additional seven units would be provided on a serviced brownfield site, and given the extent of development that has been permitted and constructed along Kinsealy Lane in the recent past in the form of the adjacent Oak Park and Castle Way residential developments, I do not consider that the proposals would generate a level of traffic that would be considered excessive, given the urban brownfield context of the site within the bounds of the settlement of Malahide, designated as a self-sustaining growth town.

7.4.3 I consider that the appeal site does not benefit from strong active travel connectivity in that there are no cyclanes in the immediate vicinity of the subject site along Kinsealy lane, and the Malahide Road is located approximately a one kilometre walk from the subject site in order to access the nearest city centre bus service, however there are footpaths along both sides of the lane, I note that the Transportation Section within FCC and a number of the observers raised the issue of sightlines at the proposed entrance point. I note that the applicants have not illustrated the extent of sightlines achievable from the entrance point in accordance with the Design Manual for Urban Roads and Streets (DMURS) Standards. However, I note that there is a two-metre footpath located along the street frontage of the appeal site and that the appeal site is located within a 50 kilometre per hour speed control zone and I consider that adequate sightlines in accordance with DMURS would be achievable on lands within the control of the applicants.

7.4.4 As per Table 4.2 of the Design Manual for Urban Roads and Streets (DMURS) Guidance, 2013 (as updated in 2019) sightlines of 45 metres are required for access points where the 50 km/h speed control zone applies (which are not located along bus routes) from a 2.4 metre set back from the edge of the carriageway. I am satisfied that adequate sightlines would be achievable in accordance with the DMURS standards.

7.4.5 The observers raised issues specifically in relation to the potential for adverse impact arising from the construction traffic that the development would generate. I acknowledge that there would be increased HGV movement along Kinsealy area during the construction phase. I note the comments from the Transportation Section within FCC who outlined no major objections to the proposals from a traffic perspective, except for querying dimensions of a number of the car parking spaces and the illustration of sightlines. However, I consider that there is adequate capacity within the adjacent road network and junctions to cater for the construction and operational phases of the development. The development would be subject to best practice traffic management practices especially during the construction phase which would include the erection of warning signage in the vicinity of the appeal site and

that construction works would be conducted during normal construction hours, these are matters that would be agreed as part of a Construction and Environmental Management Plan (CEMP), a matter that could be agreed in writing with the PA prior to the commencement of development.

7.4.6 In conclusion, I am satisfied that the scale of the development would not result in excessive traffic levels being generated and that the proposals could be designed in accordance with the Design Manual for Urban Roads and Streets standards (DMURS as revised in 2019) best practice standards and therefore, safety of pedestrians and drivers would be optimised in accordance with best practice as promoted by TII and Fingal County Council

7.5 Other Matters

7.5.1 In relation to services, the second refusal reason as set out by the Planning Authority (PA) within its decision related to the absence of deals in relation to connection to the piped water services, traffic and transportation and XXX. In relation to services the appellants have submitted details as part of their appeal submission including mapping from the Uisce Eireann (website where they illustrate that the subject site has access to the piped watermains and foul sewer networks belonging to Uisce Eireann and are available along Kinsealy Lane have consulted (on the 24th day of April 2026) the Uisce Eireann (UE) capacity register [Fingal | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) published in August 2025, it is green for water supply indicating that there is water capacity available and that there is also capacity available in the public foul network supply, albeit there is a level of service (LoS) improvement required for water supply. Therefore, in conclusion I am satisfied that the subject site is serviceable in terms of public watermains and foul sewer capacity.

7.5.2 In terms of surface water proposals, the applicants have stated as part of their appeal submission that they will incorporate Sustainable Urban Drainage proposals (SuDS) as part of the development, if permitted. It is good practice that SuDS proposals are submitted at development management stage so that the Water Services Section within FCC can provide an assessment of same.

DMSO202 requires that SuDS measures be incorporated as part of development proposals. These would be impacted and influenced by the location and disposition of public open space, as referenced within Section 7.3 of my assessment above.

8.0 **Appropriate Assessment**

8.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately two kilometers south of the North Malahide Estuary SAC (Site Code: 000205), and the Malahide Estuary Special Protection Area (SPA-site code 004025). The development description was set out within Section 2 of the report above. The PA also conducted an AA screening exercise, referenced in Section 2.5 of this report above. The third reason for refusal as set out within the PA decision was related to AA and that the applicants had not demonstrated that the development would not have a likely significant effect on any of the Natura 2000 sites. The applicant submitted an Appropriate Assessment (AA) Screening Report as part of their planning appeal submission. The PA also conducted an AA screening exercise, referenced in Section 2.5 of this report above.

8.2 The applicants' AA screening report sets out that the nearest European sites to the appeal site are the North Malahide Estuary SAC (Site Code: 000205) and the Malahide Estuary SPA (site code 004025) located approximately two kilometres east of the subject site and the Baldoyle bay SAC and SPA sites located approximately three kilometres south-east of the subject site. The Consultant Ecologist stated that the appeal site is not hydrologically/ecologically connected to any European sites. There were no drainage ditches evident within the confines of the appeal site or along its boundaries. Therefore, I am satisfied that there is no apparent surface water hydrological link between the appeal site and any European site connected to the north of the subject site. The nearest watercourse to the subject site is the Hazelbrook stream located approximately 300 metres south-west of the appeal site, however, there is no apparent connectivity from the subject site to this watercourse.

- 8.3 Four European sites were identified within a 3-kilometre radius of the appeal site. All of these sites were screened out due to the absence of hydrological or ecological pathways from the appeal site to these European sites and the separation distance to these particular European sites.
- 8.4 I am satisfied that once the proposed development would be constructed in accordance with best practice standards and in accordance with a construction traffic and environmental plan and given that the site is connected to the public piped water services that no adverse impacts on water quality, or the qualifying interests or conservation objective of these four European sites or any other European sites would arise.
- 8.5 I am satisfied that with the implementation of the standard control construction measures including those of surface water management in the form of attenuation tanks and/or hydrocarbon interceptors will not result in the residential development adversely impacting upon surface nor groundwater quality in this area. I consider that even in the unlikely event that the standard control measures should fail, an indirect hydrological link (via the underlying groundwater body) represents a weak ecological connection. I consider this to be the case given the separation distance to the North Malahide Estuary SAC and the Malahide Estuary SPA and the Baldoyle Bay SAC and SPA, the nature of the built-up urban environment between the appeal site and the SAC/SPA,s, and the absence of suitable habitat on site to serve the particular protected species for foraging/feeding purposes, As such any pollutants from the site that should enter groundwater during the construction stage, via spillages onto the overlying soils, or via spillages into the surrounding drains, will be subject to dilution and dispersion within the groundwater body, rendering any significant impacts on water quality within the Malahide Estuary/Baldoyle Bay unlikely.
- 8.6 Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to these three or any other European Site. The reason for this conclusion is as follows:

- The modest scale of the development which relates to the demolition of an existing dwelling and the construction of eight residential units.
- The separation distance from the nearest European sites and the absence of hydrological or ecological connectivity to any Natura 2000 site.
- The AA screening exercise conducted by the applicants which concluded that either alone or in combination with other plans or projects, there would be no likely significant effects on any European sites.

8.7 I conclude, that on the basis of objective information, the proposed development would not have a significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and, therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

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

10.0 Reasons

1- Having regard to established and permitted pattern of high quality residential development in the vicinity of the subject site, it is considered that the proposed development would be out of character with the pattern of development in the area and would result in the poor disposition, quality and quantity of public open space, a road layout which would not be conducive to pedestrian safety. The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities

of the area and be contrary to the proper planning and sustainable development of the area.

It is considered that the proposed scheme would:

- Be out of character with the pattern of development in the area,
- Be inappropriate in the context of adjoining development,
- Provide for a roads dominated layout which would not be conducive to pedestrian safety and, therefore, not complying with the requirements of Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013 (as amended),
- Conflict with the provisions of the current Fingal County Development Plan 2023-2029, and specifically policy objectives DMSO5, DMSO19, SPQH036, DMSO70 and DMSO72 in relation to the submission of a Design Statement, providing for high quality residential development in accordance with National planning guidance, provision of public open space in accordance with the Fingal Development Plan standards. the provision of replacement trees where mature trees are to be removed and the provision of suitable boundary treatment and open space and with the minimum standards recommended in the "Sustainable Residential Development and Compact Settlement Guidelines" published by the Department of Housing, Local Government and

Heritage in 2024, specifically policy objective 5.1 in relation to minimum public open space provision ;

- Result in an inadequate quantum and quality of public open space to serve the proposed development, and
- Give rise to substandard residential amenities for future occupiers.

The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and future residents and, therefore, would be contrary to the proper planning and sustainable development of the area.

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

Fergal Ó Bric

Planning Inspectorate

6th day of May 2026.

**Appendix 1 - Form 1
EIA Pre-Screening**

An Bord Pleanála Case Reference	PL-500610-DF-26		
Proposed Development Summary	Demolition of dwelling and construction of residential development comprising eight residential units and all associated site works		
Development Address	Kinsealy Lane, Kinsealy, Malahide, Co. Dublin.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes		√
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10 - Construction of more than 500 dwelling units	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	PL-500610-DF-26
Proposed Development Summary	Demolition of dwelling and construction of residential development comprising eight residential units and all associated site works
Development Address	Kinsealy Lane, Kinsealy, Malahide, Co. Dublin,
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>Site measuring 0.214 ha.</p> <p>There are no other developments under construction in proximity to the site.</p> <p>Proposal comprises the demolition of dwelling and construction of residential development comprising eight residential units, and all associated site works The proposal would be connected to all public services and utilities.</p> <p>The development has a modest footprint, comes forward as a standalone project,</p>

	<p>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 modest scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development, in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The site is not located within or immediately adjoining to any European Site. The closest European Sites are the Malahide Estuary SPA (Site Code: 004025) and the North Malahide Estuary SAC (Site Code: 000205), both located c. two kilometres north of the subject site. It is considered that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on a European Site and Appropriate Assessment is, therefore, not required.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the relatively modest scale of the proposed development, 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		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____