



An
Bord
Pleanála

Inspector's Report

ABP-306082-19

Development	Construction of dwelling on an infill site to the rear and north of 9 Parnell Cottages and to the front and south of 9A Parnell Cottages
Location	9b Parnell Cottages, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0444
Applicant(s)	Peter Fay
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Peter Fay
Observer(s)	Simon and Peta Curthoys Eugene and Mary MacCarrick Ron and Jean Houghton Sean and Rita Condon Rodney and Kirsty Moore Aidan Nugent
Date of Site Inspection	6 th of March 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The site is located to the east of Malahide Castle grounds and the railway line and is in one of the older established residential areas in Malahide. Parnell Cottages is a narrow cul-de-sac road and the junction with The Back Road is to the east. The subject site which has a stated area of 0.0636sq.m, is located to the rear of no. 9 Parnell Cottages and to the front of no. 9A Parnell Cottage. It is a centrally located site between 2 dwellings at either end. This is currently a level green area which originally formed part of the rear garden of no.9 Parnell Cottages and has since been fenced off. There is a leylandii hedge along the western boundary with nos. 10, 10A Parnell Cottages. There is a brick wall along the rear boundary of no. 9 with the site and a fence along the adjoining front boundary of no. 9A Parnell Cottages.
- 1.2. A private gravelled access road serves no. 9 Parnell Cottages which has road frontage and forms the vehicular entrance to no.9A, a separate dwelling to the rear of the site. There are a number of backland developments in the area, with the older property facing Parnell Cottages access road and a more recently constructed dwellings to the rear of these long gardens accessed via long driveways to the public road. On site I did not see any centrally located houses within the subdivision of these sites or relative to other properties in the vicinity.
- 1.3. Parnell Cottages is a cul-de-sac type road, although there is no turning circle at the end of this narrow road, which abuts the railway line. There are footpaths on either side of the road and relatively congested on-street parking. It is located within a 50km/hr speed limit.

2.0 Proposed Development

- 2.1. This proposal is to construct a new two storey dwelling on an infill site to the rear and north of 9 Parnell Cottages and to the front and south of 9A Parnell Cottages in an Architectural Conservation Area (ACA) and all associated site works including access, parking spaces and site drainage works.
- 2.2. The application form provides that the site area of 0.0636 and the g.f.s of the proposed works is 190sq.m. Drawings including Site Layout Plan, Floor Plans and Elevations have been submitted.

2.3. A planning rationale for the proposed development has been submitted with the application by Daragh Lynch Architects.

3.0 Planning Authority Decision

3.1. Decision

On the 8th of November 2019, Fingal County Council, refused planning permission for the proposed development for 4no. reasons, for the following reasons:

1. The proposed development is located on a rear garden site within the Bawn and St. Sylvester's Villas, Malahide Architectural Conservation Area and would by way of lack of maintenance of building lines, material use, boundary treatments and an ad hoc development approach materially contravene Objectives PM44 and DMS39 relating to infill development and through incremental development and impact on the existing character of rear gardens associated with houses in Parnell Cottage, materially impact on the residential amenity of properties in the vicinity and materially contravene the RS zoning of the lands.
2. The proposal for an infill house is not in accordance with the statement of the character of the ACA and is considered to be a haphazard piecemeal development on a central site located between the original cottage and existing infill development and for these reasons, and through use of inappropriate materials, boundary treatments and building line provision would materially contravene Objective DMS157 regarding building within ACA's.
3. The proposed development would set an undesirable precedent for similar type of incremental backland development on sites which are located between a row of existing cottages and infill development to the rear, would give rise to an ad-hoc incremental traffic effect on the narrow road serving Parnell Cottages and as a consequence would be contrary to the proper planning and sustainable development of the area.
4. Having regard to the lack of information submitted with respect to the surface water drainage, the applicant has failed to comply with the Sanitary Services

Acts 1878-1964 (as amended) and the proposed development would be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made and interdepartmental reports. Their Assessment included the following:

- They note the site is located in the established residential area and within the ACA. Permission was refused for similar reasons in Reg. Ref. F18A/0669 and the current proposal has not over-ridden these reasons for refusal.
- There is no precedent for centrally located infill development and this would set an undesirable precedent. The proposed development is considered haphazard and piecemeal.
- They have regard to the Statement of Character associated with the ACA and to the Conservation Officer's comments and consider the proposal would impact adversely.
- They have some concerns regarding the proposed design and layout and consider the proposal would represent an intrusion on existing residential amenity and be contrary to planning policy.
- They noted that there are a no. of trees on that site and recommend that a tree survey including an Arboricultural Impact Assessment etc be submitted.
- They note concerns relative to ad hoc incremental traffic congestion on this narrow road.
- They ask the applicant to clarify this wayleave as a water connection.
- It is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on any European site in the vicinity.
- They conclude that the subject site is zoned residential and is located in the ACA and that the proposed development would significantly detract from the

character of the ACA and from existing residential amenity, would constitute haphazard piecemeal development and would set an undesirable precedent for additional infill development in this location. They provide that the proposed development is considered to materially contravene the RS zoning objective for the area, Objectives PM44, DM39, relating to infill and Objective DMS157 relating to ACAs and by way of ad hoc incremental approach to backland development and would be contrary to the proper planning and sustainable development of the area.

3.3. Other Technical Reports

Conservation Officer

They do not consider that an additional dwelling between the two houses is appropriate as it is a haphazard random insertion into the area of what is considered on the ACA boundary map to be the rear garden of the original cottage.

Parks Division

They recommended that details relative to a tree survey, Arboricultural Impact Assessment, Landscaping Scheme etc be submitted. Also, that a tree bond maybe required depending the results of a tree survey, and that a special development contribution will be required in lieu or public open space provision in Malahide.

Water Services

They requested A.I including in relation to the overflow from the proposed rainwater harvesting system. Also, that revised drawings/layout be submitted.

Transportation Planning Section

They have regard to the locational context and have no objection to the proposed development.

3.4. Prescribed Bodies

There are no submissions noted on file from Prescribed Bodies.

3.5. Third Party Observations

Submissions have been received from local residents. Note has been had of these in the Planner's Report and regard is also had to the Observations made, and in the context of the Assessment below.

4.0 Planning History

The Planner's Report has regard to the history of the site which includes the following relative to the subject site:

- Reg.Ref. F18A/0669 – Permission refused by the Council for a new two storey dwelling on an infill site to the rear and north of 9 Parnell Cottages and to the front and south of 9A Parnell Cottages in an ACA and all associated site works. This was refused for 4no. reasons similar to those in the Council's more recent decision relative to the current application.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

The development strategy for Malahide contained in Chapter 4 of the Plan seeks to promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities. This includes Objective Malahide 3 which seeks to retain the existing centre with its mixed use and varied architectural character as the heart and focal point of Malahide.

Land Use Zoning

As shown on Sheet 9 of the Plan the site is located within the 'RS' Residential zoning, where the Objective seeks to: *Provide for residential development and protect and improve residential amenity.*

The application site is located with The Bawn and St. Sylvester's Villas, Malahide ACA. It is outside of and to the west of the development boundary for Malahide Castle. There is an indicative cycle route further to the south.

Place Making

This includes regard to the provision of Sustainable Residential Development, including reference to Infill, Corner and Backland Sites. It includes Objectives:

PM44 - 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.

PM45 - Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Development Management - Infill

DM39 - 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.

Architectural Conservation Areas

DMS157 Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.

DMS158 - All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.

This Table provides a Direction for Proposed Development within ACA's and includes guidelines relative to Alterations and New Build.

Objective CH32 seeks to avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area.

DMS77 seeks to: Protect, preserve and ensure the effective management of trees and groups of trees.

DMS58 seeks to: Require an equivalent financial contribution in lieu of open space provision in smaller developments of less than three units where the open space generated by the development would be so small as not to be viable. Where the

Council accepts financial contribution in lieu of open space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1.

5.2. Architectural Heritage Protection – Guidelines for Planning Authorities 2004

These guidelines outline the responsibility of the Planning Authority to preserve the character of conservation areas within their functional area. Chapter 3 refers specifically to Architectural Conservation Areas. The Guidelines state that in relation to conservation areas that: *the protection of architectural heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of the area.*

5.3. Natural Heritage Designations

The site is located within 1km of the Malahide Estuary SAC (site code: 000205) and the Malahide Estuary SPA (site code: 004025).

5.4. EIA Screening

Having regard to nature of the development comprising an infill house on a serviced site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

O'Connor Whelan Ltd., Planning Consultants have submitted a First Party Appeal on behalf of the Applicants. This has regard to the Council's reasons for refusal and to the locational and policy context. Their grounds of appeal include the following:

Reason no. 1

- The proposal does not detract from the existing houses in proximity, including no. 8 Parnell Cottages.

- The site is located between two other dwelling to the north and south and the proposed development respects the height and massing of the existing residential units to maintain the scale and physical character of the area.
- The proposal takes advantage of an unused vacant site for a dwelling which is similar in size and scale to the other developments around it. It has no impact on the surroundings as it is not visible from surrounding public roads.

Reason no. 2

- Photomontages submitted show that the proposed development is not visible, except from the access lane, the materials, form and scale of the building respects the character of the area, and the size and scale of the site is similar to the existing pattern of development in the area.

Reason no. 3

- The proposal sets a desirable precedent to incorporate a modest infill development in a controlled way that is not ad hoc, respects the character and pattern of development of the area and does not adversely affect the current situation on Parnell Cottages.
- Out of 12 properties on Parnell Cottages there are only 4 sites (including the proposed site) that would be possible to develop in this way.

Reason no. 4

- Site investigations have been completed on site and confirm the location and level of the existing drainage on site and they have revised their proposals as a result of these investigations.

Impact on Residential Amenities and Character of the Area

- The proposal is for a backland infill development on residentially zoned land that has been designed so that it will not impact adversely on the residential amenities or character of the area.
- It complies with planning policies and objectives including PM44 and DMS39 and cannot be considered ad hoc development. The proposal cannot be considered to be in contravention of the Development Plan.

- The number of traffic movements associated with the proposed development will be inconsequential and will not result in any form of traffic congestion or hazard.

Impact on ACA

- They contend that the proposal does not impact adversely on the character and amenities of the ACA. The proposal is not contrary to Objective DMS157.
- They have regard to the Statement of Character for the ACA and consider that the proposal does not impact adversely on this.
- The boundary of the ACA to the rear of No. 9 is an arbitrary line on the map which appears to have been drawn half-way between nos. 9 and 9a Parnell Cottages and bears no relationship to the actual area worthy of conservation.
- They have regard to the Conservation Officer's Report in the previous application but note that they have not been consulted in the current application.
- They consider that there is no real evaluation of the current application's impact on the ACA. The proposal will only be glimpsed from the streetscape. It will have no impact on the setting or architectural detailing of no. 9 Parnell Cottages or any of the adjoining cottages that form part of the ACA.
- There is no building line breached at this location. The building line is formed by the cottages fronting the street. This proposal does not affect the streetscape or the ACA.

Precedent

- The proposal complies with the residential zoning objective and promotes increased density on this infill and underutilised site, has no impact on residential amenities or on the ACA.
- Each proposal must be considered on its merits and an assumption should not be sought as to other sites in the future.

Surface Water Drainage

- They refer to the information given and consider that it is sufficient to ensure that there are no issues with surface water drainage. Any additional details can be agreed by way of a compliance submission.

Conclusion

- They provide a further discussion of the issues raised relative to the Council's refusal and submit that the subject development is permissible under the zoning objective, is in accordance with the relevant development plan objectives with regard to promoting density on underutilised sites, has no impact on residential amenities and has no impact on the ACA. Issues such as traffic or surface water drainage do not arise. They request the Board to grant permission.

6.2. Planning Authority Response

Their response includes the following:

- The proposal was assessed having regard to the relevant planning policies and objectives, the zoning objective and the impact on adjoining neighbours and the character of the area.
- They note that the National Framework Plan and the Fingal CDP support infill development but, consider that in this instance the backland site at this location has already been developed by the provision of no.9A Parnell Cottages to the rear.
- The provision of a second additional infill unit at this location would undermine the ACA and would provide an inappropriate level of infill development.
- They note the extensive on-street parking in the area.
- They remain of the opinion that the proposed development would significantly detract from the character of the ACA, from existing residential amenity, would be haphazard piecemeal and would set an undesirable precedent for additional infill development in this location. They consider that it would materially contravene the RS zoning objective for the area, Objectives PM44

and DMS39 relating to infill development and Objective DMS157 relating to ACAs and by way of an ad hoc incremental approach to backland development.

- They ask the Board to uphold their decision to refuse. In the event of permission they ask that a financial contribution be applied in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

These have been received from the following local residents:

- Simon and Peta Curthoys
- Eugene and Mary MacCarrick
- Ron and Jean Houghton
- Sean and Rita Condon
- Rodney and Kirsty Moore
- Aidan Nugent

As their concerns raise similar issues they are considered together for convenience under the headings below:

Impact on Residential Amenities

- The development would be very visible from properties at the rear.
- The development would impact adversely on the amenities of adjoining properties.
- It has previously been refused by the Council.

Impact on the ACA

- Ad hoc development within this area is unsuitable and contravenes the requirements of the ACA.
- Will impact adversely on the character of the ACA.

Legal issues

- Concern relative to title and development restrictions on land locked sites. Further clarification and research required of Land Registry Documents.
- These have been submitted and reference is made to Right of Way relative to construction of a new road.

Precedent

- This proposal sets an undesirable precedent for centrally located sites.
- Piecemeal infill developments such as this proposal are inappropriate and unnecessary.
- Speculative development, will not assist the housing crises as it is out of reach of the average house buyer.
- Would devalue adjoining properties and lead to overdevelopment.
- Adequate justification for the proposed development has not been provided.

Access and Traffic

- Traffic congestion on this narrow road due to level of on-street parking.
- Problems for emergency service/refuse vehicles etc have difficulties in getting down the road. There is no turning circle at the end of the road.
- Additional parking for the dwelling may be needed which will further add to congestion.
- Concerns about construction vehicles.
- Health and Safety issues.
- Originally a new road was proposed to the front of the backland properties at the rear, but this didn't happen, and they consider this land should be keep free from development.

Drainage and Flooding

- The existing surface water drainage needs attention before any further drainage requirements are added to the problem.

- Insufficient details have been submitted relative to connections to waste water drainage. This proposal will increase the strain on existing systems.
- Concerns relative to wayleave through site relative to water supply connections.
- Concerns about flooding.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The site is located within the established residential area and zoning objective 'RS' – Residential of the Fingal CDP 2017-2023 applies, where the objective seeks: *To provide for residential development and protect and improve residential amenity.* The vision seeks to ensure that any new development in existing residential areas has a minimal impact on existing amenity. This proposal is for an infill development, which is a concept that is generally supported having regard to encouraging compact growth in urban areas and increasing densities in the National Framework Plan and in policies and objectives in the current CDP. Regard is had in particular to infill Objectives PM44 and DMS39 (as noted in the Policy Section above).
- 7.1.2. It is noted that the site is located for the most part within an Architectural Conservation Area in Malahide, and is proximate to the town centre. Table 10.1 of the Fingal CDP provides a list of ACA's in Fingal and includes relative to the location of the subject site: *The Bawn, Parnell Cottages & St. Sylvesters Villas* in Malahide. Table 12.11 provides: *Changes and development within ACAs should be carried out in a manner sympathetic to its distinctive character..* This provides a number of criteria relative to new build within the ACA. Objective DMS158 seeks compliance with this.
- 7.1.3. It is noted that the Observers consider that this is not an appropriate infill site and that it would create an undesirable precedent for haphazard piecemeal development on these lands. There is an issue that backland development has already been permitted with the construction of no. 9A at the rear. Therefore, while the principle of the residential development is acceptable on zoned lands within the residential area,

it needs to be ascertained that the proposal complies with conservation policies – Policy DMS157 refers.

- 7.1.4. The First Party note that the location of the site between two other dwelling to the north and south and consider it to be an unused infill site. It is provided that the new development respects the height and massing of the existing residential units to maintain the scale and physical character of the area. Also, that the proposed development is a backland development, on lands zoned for residential development. They consider that it will comply with Objectives PM44 and DMS39 and will have no impact on residential amenities and will be in compliance with the Residential zoning Objective. They also provide that there will be no impact on the character and amenities of the ACA and that the proposal is not in material contravention of Objective DMS157.
- 7.1.5. In the Assessment below, regard is had to the issues raised in the First Party grounds of appeal and the documentation submitted which they provide seeks to address the Council's reasons for refusal. Also relative to the issues raised by the Observers including relative to the context of the site, design and layout and the impact on the character and amenities of the area, including the ACA, compliance with planning policies and objectives, landscaping/screening, access, drainage and the issue of precedent.

7.2. Legal issues

- 7.2.1. The Observers have had regard to Land Registration and Ownership considerations and Right of Way Folio details have been submitted. Considerations include relative to the former road proposal which they provide was to be constructed along the frontage of the backland properties. They submitted a Schedule of the Folio details which then included that this property was not to be built on.
- 7.2.2. It is noted that there is no reference to this access road in the current development plan and it would appear to be longer an objective. However, details have not been submitted to confirm this. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter

5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

7.3. Design and Layout

- 7.3.1. This development is for a two-storey dwelling on an infill site c. 0.0636sq.m. The Site Layout Plan shows the dwelling centrally located on site with the single storey element set back c. 16m from no. 9 and set back c. 23m from no. 9A Parnell Cottages. The proposed floor area is c.190sq.m. The floor plans show a 4 bedroom dwelling comprising single and two storey elements. It is low profile and the ridge height as shown on the elevational drawings is c.6.5m.
- 7.3.2. As shown on the Contiguous Street Elevation the ridge height of the proposed storey and a half element is reduced to 31.067m which is below the side extension to no. 8 Parnell Cottages which has a ridge line of 31.100m. The proposed two storey element of the dwelling is set back over 20m from this point which will also reduce the impact on the original cottages. In addition, the proposed dwelling is well below the ridge line of 32.28m to no. 9A directly to the north of the site.
- 7.3.3. It is noted that the proposed southern elevation has two first floor obscure glazed windows to the bedrooms that face the rear of single storey no. 9 Parnell Cottages. There are roof lights also proposed to this bedroom. There is a first floor rear window also shown on the northern elevation facing no. 9A. This appears to be to serve the stairwell and it is recommended that if the Board decides to permit that it be conditioned that it be obscure glazed.
- 7.3.4. The materials proposed are a pitched slate roof, over white painted render walls. It is provided that the materials, form, size and scale of the building all respect the existing cottages in Parnell Cottages. Roof lights and solar panels are also proposed. It is provided that the proposed dwelling while more contemporary reflects the character of the existing in the area.
- 7.3.5. It is considered that the design of the proposed dwelling provided quality external finishes are used, would not be out of character with the area. However, I would be

concerned about the proximity to the eastern and western site boundaries and the access lane, also the removal of boundary trees, which provide screening for the properties to the east and west of the site.

7.4. Trees and Hedgerows

- 7.4.1. There are a number of trees along the site boundaries. None are large mature specimens and many appear to be conifers, which have been cut back. However, the significance of the screening provided by this boundary planting for adjoining sites is noted, especially along the eastern boundary of the laneway adjacent to the site. It is considered that in view of their location in the ACA their removal would have an adverse impact on the character of the area. In this respect Objective CH32 seeks to: *Avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an ACA.*
- 7.4.2. It is noted that the Parks Division recommended a complete tree survey including an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement be submitted. The tree survey and documents to be prepared by a suitably qualified arboricultural consultant. Also, that a tree bond may be applied pending the recommendations of the tree survey. They also recommend that a Landscape Plan to include boundary treatment, tree protection measures and replacement planting be submitted.
- 7.4.3. The First Party provide that no changes are proposed to the trees along the eastern site boundary. Also, that the only change proposed is to the western site boundary where the leylandii trees will be removed and a post and rail fence is proposed. It is noted that there is a block wall along the boundary with no. 9 and a fence along the boundary with no. 9A at the rear. If the Board decide to permit it is recommended that a landscaping condition and a condition relative to boundary treatment to include a 1.8m fence/wall along the western boundary be included.
- 7.4.4. The Parks Division also recommend that a special development contribution be applied in accordance with Objective DMS58 in lieu of public open space provision. It is provided that this contribution will be applied towards the continued upgrade of

local class 1 open space facilities in the Malahide area. If the Board decides to permit it is recommended that a special development contribution be included.

7.5. Access and Roads

- 7.5.1. It is noted that the access to the new dwelling will be from the existing access laneway for no. 9a Parnell Cottages off Back Road Malahide. The overall width of the lane is 4m on average and will remain the same. The existing house at the rear no. 9A Parnell Cottages uses this access lane as does no. 9 at the road frontage end of the lane, so this will allow for a third access onto this narrow laneway. The side elevation of the proposed house is set back c.1m off this access lane.
- 7.5.2. As shown on the Site Layout Plan 2no. new on-site parking spaces are to be provided close to the northern end of the site, proximate to the frontage of no.9A. It is provided that these parking spaces will also allow for additional space for turning and manoeuvring vehicles on this lane. The applicants also provide that they have allowed sufficient space for access and maintenance to the sides, gables, front and rear of the new development.
- 7.5.3. Parnell Cottages is a narrow road with footpaths on either side. While I did my site inspection mid-morning the road was still congested and made narrower by on street parking and lack of turning head/circle. In view of these issues there may at times be difficulties for a service/emergency vehicle to access the rear of this road. This proposal will provide for a further intensification of the use of the existing access. Concerns relative to construction works and the impact on the narrow access road for adjoining residents are also noted. Sightlines at the existing shared access are as far as the junction of the Back Road to the east and as far as the cul-de-sac to the west. It is noted that the Transportation Planning Section has no objection to the proposed development.

7.6. Impact on the Character and Amenities of the ACA

- 7.6.1. Table 10.1 of the Fingal DP 2017-2023 provides a list of the ACA's in Fingal. It is noted that the site is located within the Bawn, St. Sylvester's Villas & Parnell Cottages ACA which relates to a very specific area proximate to the village centre. A copy of the ACA's Statement of Character which includes regard to its historic

character and built fabric is included in the Appendix to this Report. This includes:
Where the potential for infill development exists, the new build should conform to the existing building lines and overall scale and character of the area.

- 7.6.2. The Council's Conservation Officer notes that the proposed development is within the boundary of the ACA which places a level of protection on the exterior of buildings which positively contribute to the character of the area and controls on how new build addresses the streetscape. No. 9 Parnell Cottages is one of a semi-detached pair of early 20th century cottages that contribute positively to the character of the ACA. Regard is also had to the pattern of backland development with modern houses with a similar building line to the rear of these lands. While these are generally low profile, many of these dwellings were constructed prior to ACA designation so there is a variety of design approach taken. There is concern that the inclusion of a centrally located dwelling on a plot between these two houses is inappropriate as it is a haphazard random insertion of what is considered on the ACA boundary map to be the rear gardens/lands of the original cottage.
- 7.6.3. Table 12.11 of the Fingal CDP provides a *Direction for Proposed Development within the ACA*. This includes a sensitive design approach relative to new build to ensure the proposal does not compromise the integrity and character of the area. Policy DMS157 seeks to: *Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.*
- 7.6.4. The First Party contend that the development has considered the pattern and scale of existing development on Parnell Cottages, has taken advantage of the access and services available, and has minimised the impact of the design on neighbouring sites and that the proposed design will not have a negative impact on the amenities of neighbouring properties. This have submitted Photomontages showing the cottages and the proposed dwelling. This includes a view down the driveway to the proposed dwelling.
- 7.6.5. However, I would be concerned that this proposal would not respond sensitively to the immediate context of the site and the character of the surrounding area. It would not reflect the historic urban grain in that it would lead to the creation of an additional

centrally located plot, an inappropriate siting, a new concept that would not respect the building line of existing properties and would not comply with the criteria for development in ACA's in Table 12.11 or Policy DMS157. As such I would not consider that Reason no. 2 of the Council's refusal would be overcome by the current proposal.

7.7. Precedent

- 7.7.1. Reason for refusal no. 3 refers to the creation of undesirable precedent for other similar developments in the area. There is concern that the granting of permission in this centrally located site may cause a precedent for other similar type development in the vicinity, which would be detrimental to the residential amenities of the area. On site I noted that there were no other similar scenarios within the vicinity. The Planner's Report notes that on inspecting the planning history pertaining to Parnell Cottages that there is no precedent for infill developments on central locations within the rear gardens similar to what is being proposed as part of this application.
- 7.7.2. The First Party considers that the proposal is acceptable in principle and in accordance with the residential zoning objective, it promotes increased density on this infill underutilised site and they provide has no impact on the residential amenities and character of the area or the ACA. They also, note that out of 12 properties on Parnell Cottages there are only 4 sites (including the proposed site) that would be possible to develop in this way. They include a map showing these and consider this would not be an undesirable precedent.
- 7.7.3. However, while each case is considered on its merits, I would be concerned that an undesirable precedent would be set in introducing a central location as an infill site for residential development within the ACA. As such I would not consider that the issue of precedent has been overcome.

7.8. Drainage

- 7.8.1. The Council's fourth reason for refusal concerns lack of adequate information submitted on drainage. Details submitted provide that the applicant proposes to connect to the adjacent existing public services in Parnell Cottages. They provide that surface water drainage will be addressed on site using a rain water harvesting

system, permeable paving and storm water attenuation. Foul drain and water main connections are proposed to be made to the existing laneway services.

- 7.8.2. Documentation submitted with the application notes that the site investigation has confirmed the location and level of the existing drainage on site and that the applicants revised their proposal as a result of these investigations. It is provided that the existing sewer is 3m from the boundaries and the foundations of the proposed building. Also, that they have revised the wayleave on the drawing to show a connection with Parnell Cottages. They note that the position of the wayleave was a drawing error in the previous application Reg.Ref. F18A/0669.
- 7.8.3. It is noted that the Council's Water Services Department recommended that A.I be submitted relative to the proposed rainwater harvesting system and the overflow. They provide that the applicant should consider discharging the overflow into an infiltration pavement, soakaway etc or a piped connection to the existing surface water network. Also, that a revised layout drawing and design details should be submitted.
- 7.8.4. Irish Water had some concerns relative to wayleave access across the property of no.9 and that as such the property appears to be landlocked. They recommended that a minimum distance between the sewer and any part of the proposed development (including foundations) must be maintained. Having regard to the width of the lane and drainage plan it has not been confirmed that there is 3m available. Also, clarification is sought as to this water connections. Where the applicant proposes to connect directly or indirectly to a public water/foul sewer network operated by Irish Water, they provide connection agreement with Irish Water must be signed. While these are issues for agreement with Irish Water and are not within the remit of the Board, I would be concerned that details relative to the wayleave have not been confirmed.
- 7.8.5. The First Party provides that site investigations have been completed on site and have confirmed the location and level of the existing drainage on site. Also, that they have revised their proposals as a result of these investigations. They provide the existing sewer is 3m from the boundaries and foundations of the buildings. In addition, that the correct wayleave is indicated on the drawings submitted with the planning application showing a connection with Parnell Cottages. However, a

drawing has not been submitted to demonstrate that a 3m wayleave is available. As shown the proposed dwelling appears to be set back c. 2m from the wayleave.

- 7.8.6. They also provide that surface water drainage will be addressed on site using a rain water harvesting system, permeable paving and storm water attenuation. I would consider that further details relative to surface water drainage need to be submitted. However, I am concerned relative to the wayleave issue and do not consider Reason for Refusal no.4. has been satisfactorily overcome.

7.9. Screening for Appropriate Assessment

- 7.9.1. Having regard to the nature of the development and its location in a serviced urban area, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the established pattern of development in the area, the residential and visual character of the designed Architectural Conservation Area (ACA) and the backland nature of the subject site, located centrally between two existing dwellings, it is considered that the proposal in this location does not represent a sensitive infill and redevelopment opportunity. It would set an undesirable precedent for disorderly, piecemeal and haphazard development and would compromise the integrity and would not enhance the character of the ACA. As such it would be contrary to Objectives DMS157 and CH32 and DMS39 of the Fingal Development Plan 2017-2023.
2. It is considered that insufficient information has been submitted in relation to surface and foul water drainage systems to ensure that the proposal would be in accordance with current standards for such works and would not be

prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

27th of March 2020