



An  
Bord  
Pleanála

## Inspector's Report PL 06F.247232

---

<b>Development</b>	Partial demolition of existing house and reconstruction to provide a two-storey house and all associated works.
<b>Location</b>	'Seamere', Ceanchor Road, Howth, Co.Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F16A/0279
<b>Applicant(s)</b>	Conor and Emma Conneely
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michele Ridgway
<b>Observer(s)</b>	none
<b>Date of Site Inspection</b>	01 December 2016
<b>Inspector</b>	Patricia Calleary

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Fingal Development Plan 2011-2017 .....	6
5.2. Howth Special Amenity Area Order.....	6
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant's Response.....	8
6.3. Planning Authority Response .....	9
6.4. Observations .....	9
6.5. Further Responses.....	9
7.0 Assessment .....	9
7.1. Introduction .....	9
7.2. Compliance with Planning Policy .....	10
7.3. Visual Amenity .....	10
7.4. Residential Amenity .....	11
7.5. Drainage – New Issue .....	12
7.6. Other .....	14
7.7. Appropriate Assessment .....	15
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.39 Ha is located on the southern side of Ceanchor Road, Howth, Co. Dublin. It is a long and narrow site which slopes from Ceanchor road to the rear and currently comprises a two storey dwelling house, 'Seamere' with a stated gross floor area (GFA) of 298 sq.m. There is also a domestic garage on the site positioned to the front of the house to the west side of the site and a small shed is positioned front and east. There are individual houses on mature sites located to the east, south and south west of the appeal site. The closest of these is located immediately east and is known as 'The Needles'. The site contains mature trees and hedges, stone boundary walls and a block wall in part. In the wider landscape, the site is located to the south of Howth Peninsula.

## 2.0 Proposed Development

- 2.1. The proposed development would involve demolishing c. 97 sq.m floor area of the house and reconstruction works to provide a two-storey, four-bedroom dwelling with a pitched roof together with all associated works including car parking, landscaping, drainage and the connection to the existing on-site septic tank. The resultant GFA would be 387 sq.m.
- 2.2. Access would continue to be from Ceanchor Road along an existing private driveway c.125 m in length.
- 2.3. The application is accompanied by a Planning report, a Natura Impact Assessment AA Screening Statement, Arboricultural Report, Engineering Services Design Report, an EPA Site Characterisation report and a Soil Infiltration Test report.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a decision to grant planning permission, the following conditions of note:

4. Flat roofs not to be used as balconies or terraces;

5. Bathrooms, en-suites and landing windows at first floor on western elevation to be fitted with permanently maintained obscure glass;
6. Stone wall along western site boundary to be protected during works;
7. Implement recommendations pertaining to tree retention as per Arboricultural report by Tree File Ltd.;
8. Tree bond of €30,000 to be lodged with Fingal County Council.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Officers Report

- The site is zoned 'RS' and is therefore acceptable in principle;
- Height would be increased from 104.385m to 105.22m. Adjoining house to east has a height of 107m. Hence increased height considered acceptable;
- No adverse impact on visual amenity upon the surrounding landscape;
- Stone wall to the west will be protected (condition will be applied);
- Condition will be applied requiring compliance with the Arboriculture Report and requiring a tree bond;
- Proposal will not have a significant adverse impact on amenity of house to the East in terms of overshadowing, loss of light or overbearing;
- Position of first floor windows will not give rise to significant adverse impact;
- No direct overlooking will result to the west. A condition requiring obscure glazing will attach;
- Water services section raised no objection to the use of the existing septic tank;
- No AA issues arise;
- Consider the proposal is consistent with the provisions of the current Fingal county development plan.

A recommendation to **grant permission** subject to conditions was put forward.

### 3.2.2. Other Technical Reports

- Planning & Strategic Infrastructure Department (Water Services) – No objection to foul sewer or surface water proposals subject to conditions;
- Parks and Green Infrastructure Division - No objection subject to conditions;
- Heritage Officer – No response received;
- Transportation Planning Section - No objection subject to conditions.

### 3.3. Prescribed Bodies

- An Comhairle Ealaíon – No response received;
- Fáilte Ireland – No response received;
- An Taisce – No response received;
- Irish Water – No objection on water proposal.

### 3.4. Third Party Observations

- 3.4.1. Three letters of objection were received by the Planning Authority including one from a Councillor recommending a refusal of permission. The principal planning issues raised are noted in the Planning Officer's assessment. Concerns are raised around effluent treatment, protection of existing adjacent house during construction, protection of trees and matters of residential amenity.

## 4.0 Planning History

### 4.1. On the appeal site:

- **F16A/0765** – Permission granted for conservatory to rear of house in 1999.

### 4.2. In the vicinity:

- **F12/0053** - The applicant refers to a grant of permission on a site 100m to the east of the appeal site for demolition and construction of a house at Shanet, Canchor Road in July 2012 and states that this supersedes previously approved permissions on that site under Reg.Ref F03A/0013 and F06A/1081.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2011-2017

- The site is located within an area zoned 'RS', i.e. 'to provide for residential development and protect and improve residential amenity'. The stated vision for this 'RS' zoning is to 'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity';
- Objective **HOWTH 3** Implement the Howth Special Amenity Area Order;
- **Objective SA01** - Protect and enhance the character, heritage and amenities of the Howth and the Liffey Valley Special Amenity Areas in accordance with the relevant orders;
- **Objective SA03** - Protect the heritage and landscapes of Howth and the Liffey Valley, whilst facilitating enjoyment by the public;
- Howth is located in a '**Coastal Character Type**' which is categorised as having an **exceptional landscape** value in the Fingal Development Plan;
- **Policy 2.1.1** – Applications for planning permission must take visual impact of proposal on views into account;
- **Objective VP01** and **VP02** serve to protect views and prospect and to resist inappropriate development which would interfere with a view or prospect;
- **Objective 2.1 of SAAO Order** - preserve views from public footpaths and roads;
- **Objective WQ06** - Minimise the impact on surface water of discharges from septic tanks, proprietary effluent treatment systems and percolation areas by ensuring that they are located and constructed in accordance with the recommendations and guidelines of the EPA and Fingal County Council.

### 5.2. Howth Special Amenity Area Order

- In 1999 the Minister for the Environment signed the Special Amenity Area Order (S.A.A.O.) for Howth. This order sets out a framework for the conservation and protection of the area designated in accordance with the Planning Act and Planning Regulations;

- Site is located within the Howth Special Amenity Area Order (SAAO). It is designated as 'Residential Area' within Map A of the SAAO where residential developments are permitted in principle. For the development of new dwellings, a density cap of 1 unit per hectare applies. There is an existing stone wall which forms the western boundary of the site and which is recognised as an important feature in the landscape within Map B of the SAAO.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

An appeal was received from the occupants of the house, 'The Needles' which is located immediately to the east of the appeal site. The principal grounds of the appeal are set out under.

- Requests that An Bord Pleanála would attach revised conditions to safeguard existing residential amenity of their property;
- Noting the proposal for continued use of the existing septic tank, does not see the need for an additional rising main for a future connection to the existing public sewer and if implemented would potentially result in damage to appellant's property;
- As eastern gable of applicant's property adjoins appellant's house, concerned regarding the impact the demolition and construction could have on structural integrity of their house and boundary wall. Requests that a condition should attach to require the applicant to engage a structural engineer to survey their property prior to commencement and on completion of the project to assess whether or not any structural damage has taken place and to inform any repair work that might be required;
- Requests that a condition attach preventing the removal, damage or blocking up of 2 existing windows in the shared boundary wall at ground level as they provide the only source of light to utility area of appellant's house;

- Requires any trees that are removed or damaged during construction to be replaced with similar species of same size and maturity on appellant's side of boundary;
- Requests that conditions No.s 4,5,8, 9 and 10 attached to the Planning decision are retained (in addition to attaching new conditions referenced above).

## 6.2. Applicant's Response

A response to the appeal was received from Hughes Planning and Development consultants on behalf of the first party. The response is summarised under as follows:

- Existing on-site treatment system is compliant with EPA standards and has the capacity to treat the effluent which would be generated and the house will have a reduced number of bedrooms (four) relative from that which currently exists (six). The proposal for a rising main is to allow for potential future connection to the public sewer should such services become available;
- Excavations will be shallow (600mm) and will take place on the eastern side of the site but outside of the root protection area of existing trees;
- The existing building is only partially connected to the adjoining property (The Needles) for a length of 2.16m. The footprint of the existing building will be largely unchanged with the new works primarily to the rear of the building which will not impact on 'The Needles' property;
- Works will not materially affect the setting of the 2 original ground floor windows at 'The Needles';
- The existing trees on site are all to be retained in accordance with 'best practice' and ground protection measures will be employed to mitigate any potential impacts on trees/vegetation;
- Landscaping is proposed in accordance with the scheme which had regard to the Howth Special Amenity Area Order;



The response also included two A4 drawings which included a proposed foul water Layout and a current roof plan detail showing the location of the existing connection between both houses.

### 6.3. **Planning Authority Response**

- Provides a summary of the application and appeal;
- PA remains of the view that the proposal will not detract from the visual and residential amenity of the area and would be consistent with the provisions of the Fingal Development Plan 2011-2017.

### 6.4. **Observations**

- none

### 6.5. **Further Responses**

- none

## 7.0 **Assessment**

### 7.1. **Introduction**

7.1.1. I have read and considered the contents of the planning application, grounds of appeal, responses and relevant planning policy. I have also attended the site and environs. The following assessment covers my considerations on the key planning issues and also encapsulates my *de novo* consideration of the application. I consider the key issues in determining the application and appeal before An Bord Pleanála are as follows:

- Compliance with planning policy
- Landscape and visual amenity
- Residential amenity
- Drainage
- Other
- Appropriate assessment.

I outline my considerations on each of those issues as presented under.

## **7.2. Compliance with Planning Policy**

Within the Fingal Development Plan 2011-2017, the site is zoned 'RS', i.e. 'to provide for residential development and protect and improve residential amenity'.

The site is located within the Howth Special Amenity Area Order (SAAO). It is designated as 'Residential Area' within the Special Amenity Area (Map A of the SAAO) where residential developments are permitted in principle. Objective HOWTH 3 gives effect to the Howth SAAO. A density cap of 1 dwelling per hectare applies for new dwellings but this would not be applicable in the current case where a dwelling already exists. Having regard to the aforementioned planning policy, the proposed development of a reconstructed dwelling is considered acceptable in principle.

## **7.3. Landscape and Visual Amenity**

- 7.3.1. The existing house is set back from the adjoining road (Canchor road). It is well screened with mature landscaped boundaries and trees. The height of the house would be increased marginally from an existing ridge height of 104.4m to a proposed height of 105.2m. As stated above, the site is located within the Howth Special Amenity area. In addition, there are a network of paths proximate to the site (north, east and south) which form part of Howth Cliff Walk, from which views are protected. The house is positioned c.125m from the path to the north (Canchor road) and c.200m from the path to the east. There are limited views of the existing house and similarly there would be limited views of the house as reconstructed from the path to the south. Given the context of the existing house and the distance from the pathways, the proposal would not in my view result in any notable reduction in views from the Cliff Walk network or cause an adverse visual impact on the landscape.
- 7.3.2. The Howth SAAO includes a stone wall which is noted as an important feature of the landscape along the western boundary of the appeal site (Map B of the Howth SAAO). No works are proposed along this wall and as such, the wall would not be disturbed.

- 7.3.3. The Parks and Green Infrastructure Division raised no objection and recommends that the developer implements the recommendations pertaining to the retention of trees referred to and also implementing the landscape proposals submitted.
- 7.3.4. Having regard to the above and having inspected the site, I do not consider that unacceptable visual amenities would arise as a result of the development. Neither do I consider that protected public views would be interfered with or that the coastal character would be altered. Accordingly, I consider that the development should not be refused on matters of landscape or visual amenity.

#### **7.4. Residential Amenity**

- 7.4.1. The development has potential to impact on residential amenity of the property to the east. The proposals involve increasing the height and depth of the existing dwelling as reconstructed but given the context of the existing arrangement where both houses are located close together, it is considered that the proposed development would not pose any significant adverse impact in terms of overlooking. The first floor element proposed to the rear of the dwelling would be separated by 6m from its eastern boundary which is the boundary between the applicant and third party appellant's property and no windows are proposed at first floor level. Two windows are shown proposed on the first floor of the front portion of the house which would be positioned 10.5m from the eastern boundary and as such are sufficiently separated to ensure no issues of overlooking arise. Given the orientation of both properties and the current house on site, it is equally considered that overshadowing issues would not arise. In relation to the 2 original windows at ground level on the eastern elevation of the appellant's adjoining property which is also the shared boundary between both properties, these are located to the front facing west onto the appeal site. Having regard to the existing context and the ample separation distance, the development would not materially affect the windows in my opinion. The proposed new building elements would for the most part be located to the rear of the existing dwelling on the appeal site. The works to the front are proposed to be positioned on the west side replacing existing accommodation which also has 2 windows albeit which are c.2m further away from the eastern boundary.

- 7.4.2. Given the context of the existing dwelling on the appeal site and the position of the adjoining property, it is considered that the development would not cause in overlooking or loss of privacy on neighbouring residential amenities.
- 7.4.3. In relation to protecting the structural integrity of the adjoining dwelling to the East, I consider that having regard to Section 34(13) of the Planning and Development Act 2000, as amended, this matter falls outside of the scope of the assessment of the planning merits of the proposal.

### 7.5. **Drainage – New Issue**

- 7.5.1. A new gravity feed system is proposed to convey effluent from the reconstructed house to the existing septic tank on site. It is stated that treated effluent would then be discharged to the existing percolation area. It is also proposed to provide a pumped rising main to serve for potential **future connection** to the public sewer. It is submitted that the septic tank complies with EPA standards and that there would be no increase in loading as the reconstructed house will have four bedrooms whereas the existing house has six bedrooms. Section 2.1 of the Technical Note by MPA consulting engineers states that a visual inspection of the existing foul system identified no issues and also that the applicant has confirmed that historically there were no issues with the existing system and that the septic tank will prove adequate.
- 7.5.2. It appears from Dwg No. 161015/PL/002 Rev PL2, that it is proposed to collect clean surface water from impermeable areas and discharge to a soakway to the rear of the reconstructed dwelling. A soakway is also shown serving the domestic garage, positioned to the front of the house. The Soil Infiltration test report infers that infiltration blankets would be more suitable on site. Planning & Strategic Infrastructure Department (Water Services) recommend that the surface water drainage should be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage works Version 6)'.
- 7.5.3. Irish Water and the Local Authority's Water Services section have raised no objections subject to conditions.
- 7.5.4. While noting that it is submitted by the applicants that the current septic tank and percolation area are in compliance with current EPA standards, the site characterisation assessment report also submitted with the application is at variance

with this assertion. Section 4 of the Site Characterisation assessment report states that the site is not suitable for a septic tank and percolation area but would be suitable for a secondary treatment system. It also refers to the site currently having 'a septic tank and limited percolation area'. Under Section 5, the assessment goes on to recommend the installation of a package aeration system and to polish the treated effluent through a sand polishing filter of 30 sq.m area before final discharge to ground. Under Section 6, an Oakstown Biofilm Aerated Filter (BAF) sewage unit with a primary compartment of 3 cubic metres suitable for a population equivalent (pe) of 6 is indicated as a suitable solution. It is of relevance to note that groundwater has been identified in the site characterisation assessment as a high risk because of the aquifer's extreme vulnerability. The assessment also notes the presence of rock at 800mm below ground. Table 6.2 of the EPA Code of Practice for wastewater treatment and disposal systems serving single houses requires a minimum depth of 1.2m of unsaturated permeable subsoil below the base of all percolation trenches for septic tank systems. Noting the presence of rock at 800mm, this cannot be currently achieved on the appeal site.

7.5.5. I accept that the house when reconstructed while larger in floor area would have a reduced number of bedrooms and would not therefore increase the existing effluent loading. However, the scientific evidence clearly indicates that the ground is not suitable for an existing septic tank and percolation area and the recommendations laid out in the Trinity Green site characterisation report have not been incorporated into the design. Specifically, Dwg No. 161015/PL/002 Rev PL2 shows the existing septic tank and existing percolation area are to be retained. The public notice also states that the house (as reconstructed) would involve 'connection to existing on-site wastewater treatment system' and the application form stated that the proposed wastewater treatment would be via a conventional septic tank system.

7.5.6. In conclusion on drainage, the issue of effluent treatment has not been resolved and I am not satisfied given the evidence on file, specifically the specific recommendations of the site characterisation assessment which I have detailed above are met with the existing on-site septic tank and percolation area to which it is proposed to convey and treat the effluent from the proposed reconstructed house. Neither am I satisfied that the septic tank system can be in compliance with current EPA standards, as inferred throughout the applicant's submission, having regard to

the conclusion arrived at in the site characterisation assessment that the site is not suitable for a septic tank and percolation area.

- 7.5.7. Accordingly, I recommend that the application should be refused on the grounds that the proposal to discharge effluent to the existing septic tank and percolation area would not be in compliance with the EPA Code of Practice for wastewater treatment and disposal systems serving single dwellings (2009) which in turn would be prejudicial to public health and would lie contrary to Objective WQ06 of the Fingal Development Plan 2011-2017. The Board may wish to note that this is a **new issue** in the assessment of this appeal. I considered the attachment of a compliance condition to provide a package wastewater system and polishing filter on-site but I am of the view that effluent treatment is a fundamental element to be considered in this specific site rather than a minor detail suitable for compliance post a grant of permission and accordingly I did not pursue this alternative.
- 7.5.8. In relation to the provision of a pumped rising main to prepare for a **future connection** to the existing public sewer, I consider this element is a sustainable provision and wholly acceptable and I note that it involves shallow excavations which would unlikely give rise to impacts to adjoining properties. Notwithstanding this future intention, I consider the proposal as outlined in the public notice, i.e. to connect to the existing septic tank system currently on site is the current proposal which I am required to assess.
- 7.5.9. I consider the proposal for discharge of surface water run-off on site raises conflicts between the drawing and the technical information on file. However, I consider it is broadly acceptable and I recommend that the requirements of the Water Services Section regarding compliance with the Greater Dublin Regional Code of Practice for Drainage works Version 6' should follow through as a condition in the event that the Board were to grant permission.

## 7.6. Other

I note that the Transportation Section requested that the front boundary wall along the public road be set back to provide a 1.8m footpath. Given that no works are proposed to the front wall and the low level of traffic on the road which is a cul de

sac, I concur with the planning authority's assessment that this requirement would not be warranted in this instance.

## **7.7. Appropriate Assessment**

- 7.7.1. The application was accompanied by an Appropriate Assessment (AA) screening report which considered 16 Natura sites within a 5km radius of the appeal site. The AA Screening report concludes that significant effects on the qualifying interests of the SPAs and SACs are not likely as a result of the proposed development and that progression to Stage 2 of the Natura Impact Statement process is not necessary.
- 7.7.2. I note that the development is not located within any Natura 2000 site. It is however located 0.28 km from the nearest site (Rockabill to Dalkey Island SAC), 0.39km from North Bull Island SPA and 0.47km from Howth Head SAC. The proposed development is physically separated from these sites. The scale of the development involving the re-construction of an existing house will be relatively modest and best practice construction management will be employed during demolition and construction stage to ensure no significant negative effects on the protected habitats occur.
- 7.7.3. As referenced under Section 7.5 (Drainage) of my report, I note that it is stated by the applicant that the existing on-site effluent treatment system complies with EPA standards for wastewater treatment systems but as stated above, this conflicts with the findings of the site characterisation report which conclude that the site is not suitable for a conventional septic tank and percolation area.
- 7.7.4. On balance, given the scale of the development which is to reconstruct an existing house, where no increase in effluent loading would result, it is unlikely the development alone would pose significant effects on the aforementioned European sites, notwithstanding the conflict arising on the issue of wastewater treatment.
- 7.7.5. Having regard to the nature and scale of the development proposed and to the proximity to the nearest European sites, 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. Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made about the appeal and my site inspection, I recommend that **permission** should be **refused** for the reason and considerations outlined under.

## 9.0 Reason and Considerations

1. Having regard to the soil conditions and presence of bedrock at 800mm on site, and to the findings of the EPA Site Characterisation assessment that a septic tank system and percolation area are not suitable to adequately treat effluent and that a secondary treatment system is required, the Board is not satisfied that effluent from the development can be satisfactorily treated and disposed of on-site using the existing conventional septic tank and percolation area. The proposed development would therefore be prejudicial to public health and would lie contrary to Objective WQ06 of the Fingal Development Plan 2011-2017 which requires septic tanks and proprietary effluent treatment systems to be constructed in accordance with the recommendations and guidelines of the Environmental Protection Agency and Fingal County Council. The Board noted the proposal for a future connection to the existing public sewer but considered the current proposal was the proposal needed to be assessed.

---

Patricia Calleary  
Planning Inspector

19 December 2016