



An
Bord
Pleanála

Inspector's Report 06F.248057

Development	Demolition of existing house and construction of a new house and all associated works.
Location	12 Asgard Road, Howth, Dublin
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F16A/0435.
Applicant(s)	Noel Crowley and Ger O'Sullivan.
Type of Application	Permission.
Planning Authority Decision	To grant with conditions.
Type of Appeal	Third Party.
Appellant(s)	Tom Whelan, John Fisher, Dick and Síghle Conway, Frances Lappin.
Observer(s)	
Date of Site Inspection	3 rd May 2017
Inspector	Deirdre MacGabhann.

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1.0 Site Location and Description

- 1.1. The 0.073ha appeal site lies on the eastern side of Howth Head, Howth, Co. Dublin. It is situated to the west of Thormanby Road, on Asgard Road, a short cul-de-sac off Thormanby Road. The appeal site comprises no. 12 Asgard Road.
- 1.2. The appeal site comprises one of 15 residential properties built at the western end of the road, comprising a mix of A shaped dwellings (with bedroom accommodation in the roof space) and bungalows. To the eastern end of the road dwelling type differs with more substantial properties including more recent developments at Galtee Lodge (photograph no. 3) and on land to the east of no. 20 Asgard Road (photograph no. 2). Due to topography, houses on the southern side of the road are high than those along the north.
- 1.3. The appeal site is situated between nos. 11 and 13 Asgard Road. These properties, and the appeal site, are progressively stepped back to facilitate the turning head at the western end of the road. Houses sit tightly together and are cut into the rising topography with elevated rear gardens.
- 1.4. Access to the appeal site is via an existing driveway along the eastern boundary of the site. The existing detached property is a small bungalow with a detached garage, to the east of it. To the rear there is a small patio area to the south of the property and an elevated rear garden which is accessed by steps. There is mature vegetation along site boundaries to the rear of the property, separating its rear garden from that of neighbouring properties.

2.0 Proposed Development

2.1. Planning Application

- 2.1.1. The proposed development, as modified by the submission of further information, comprises the demolition of the existing bungalow and garage and the construction of a new two storey dwelling with a double apex roof, facing Asgard Road.
- 2.1.2. The development, at ground floor, will be cut into the site and comprises four no. bedrooms and bathroom accommodation. An external terrace is proposed to the south east of the dwelling, accessible from the bedroom in the south east corner of the property and from the side entrance to the property. Stairs allow access from the

terrace to the rear garden which is elevated above the terrace. A small terrace is also proposed to the front of the property with access off the master bedroom and a second bedroom.

2.1.3. At first floor, accommodation comprises the main living spaces. To the front, an aluminium framed glazing system extends across the frontage (living and dining accommodation). Externally, to the living room, is a large terrace. On its eastern side is a block wall, on its northern and western side is a frameless glass balustrade. To the rear of the property the kitchen is linked to the garden with the garden raised to meet the first floor.

2.1.4. Works include:

- New timber fence along external boundary of rear garden (1.8m in height).
- Relocation of the existing vehicular entrance, from the east to the west side of the site and a new pedestrian entrance to the east of the site.
- Landscaping and associated site works.

2.1.5. Accompanying the planning application for the proposed development is a construction method statement setting out how the development will be constructed (cut into the earth embankment).

2.1.6. In response to the planning authority's request for further information, the applicant submitted a Planning Report, associated plans and photomontages. Of note, it is stated:

- Development rationale – The existing property has a low energy rating and would be inefficient to heat, has a poor internal layout and poor connection to the living area and rear garden. The proposed development will have a minimum energy rating of A3, provides living accommodation which is centred around the kitchen (as per the government's guidelines on quality housing) and has been designed to maximise southern, eastern and western aspect for all living spaces whilst enhancing and avoiding undue amenity impact on neighbouring residents.
- Scale of dwelling/overlooking – There are no windows in either the eastern or western elevation at first floor. Eaves level and roof profile are such that the dwelling will not overbear the adjoining properties. The dwelling respects the

building line between no. 11 and no. 13 Asgard Road. The building height and roof profile seek to respect the character and appearance of the streetscape and avoid any loss of amenity to adjoining properties (see east-west cross section, Drawing No. 841(P-)022).

- First floor balcony (to front) – The proposed development will be 38m from no. 5 Asgard Road and separated from it by two front gardens, the public road and vegetation. Separation distance is greater than the minimum 22m separation distance stated in the government’s guidelines on Sustainable Residential Development in Urban Areas (2009) and no loss of privacy will arise (drawing no. 841(P-)021). The adjoining development to the west (no. 11 Asgard Road) has a balcony on the front elevation at second floor level. The proposed development, with balcony incorporated into the overall design of the house represents a more desirable design response.
- Visual prominence – The dwelling has been designed to respect the established character of the area, as defined by the building lines and height and to a lesser extent by dwelling style (see drawing nos. 841(20)041 and 042).
- Relevant precedent – A number of infill housing developments have been approved in the vicinity of the site. These indicate the acceptability of both infill housing and a contemporary approach to layout, form and design (PA refs. F12A/0145, F07A/0539, F00A/0412 and F95A/0915 – see file).
- Sunlight and daylight – The proposed development is compliant with the requirements set out in Chapter 2 of the government’s Site Layout Planning for Sunlight and Daylight (see drawing no. 841(P-)010A) and will not cause any loss of daylight to dormer windows to the sides of adjoining properties.
- Impact on existing trees (to rear of site) – The proposed 1.8m high timber fence (drawing no. 841(P-)022), along boundaries to the rear of the site will avoid any impact on existing trees within adjoining properties.
- Right of way – Appendix A of the report provides a letter from the applicant’s solicitor which explains that the title deeds in respect of the property make no reference to any right of way on the property.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 31st January 2017 the planning authority decided to grant permission for the development subject to 13 no. conditions. Most of these are standard. Site specific conditions include the following:

- No. 4 – External finishes to be as per those indicated on drawing nos. 841(P-) 010 to 012.
- No. 5 – Opaque screen to be provided along western side of proposed first floor balcony.
- No. 6 – Developer to make provision for access to the hedge to the west of the site to facilitate long term maintenance.
- No. 8 – Includes that front boundary wall to be reduced to a maximum height of 900mm to maintain sightlines.

3.2. Planning Authority Reports

3.2.1. There are two reports by the Planning Officer on file. The first report (29th November 2016) describes the development, the zoning of the site, the planning history of sites in the vicinity of the appeal site and the objections/submissions and reports received. It raises concerns regarding the following issues:

- The visual impact of the development.
- Overlooking arising from the balcony to the front of the property.
- Overshadowing of adjoining properties.
- Extent of boundary walls (including impact on existing hedgerows/trees).
- Impact of first floor terrace and adjoining boundary wall and the impact on adjoining properties (overbearing and overlooking).
- Impact on right of way to the rear of the proposed property.

3.2.2. The report recommends further information to address these matters. The planning officer's subsequent report (31st January 2017) considered that the applicant had adequately addressed the concerns previously raised. It concluded that the

development would not be visually prominent or incongruous in the streetscape or, subject to conditions, have an adverse impact on residential amenity. In recommended a decision to grant permission subject to 13 no. conditions.

3.3. Other Technical Reports

3.3.1. On file are the following technical reports:

- Water Services (14th October 2016) – No objections subject to conditions.
- Irish Water (14th October 2016) – No objections. Propose notes to be included in any grant of permission.
- Transportation Planning (8th November 2016) – Proposed relocation of entrance is acceptable subject to the front boundary walls not exceeding a height of 900mm to maintain sightlines at the proposed entrance. No objections subject to conditions.
- Parks Planning (23rd January 2017) – No objections.

3.4. Third Party Observations

3.4.1. Eleven no. observations were made in respect of the proposed development, as originally submitted to the planning authority, including by neighbouring property owners and other residents along Asgard Road (see footnote¹). Subsequently, further observations were made (after the submission of further information) by six parties (see footnote²). Issues raised can be summarised under the following headings:

- Impact on streetscape - Development is out of character with existing development, will adversely impact on streetscape/character of the area and be inconsistent with the established building line.

¹ Gerry and Mary Murphy (Meevagh, Asgard Road), Tom Whelan (no. 5 Asgard Road), Peter and Paula Lynskey (no. 6 Asgard Road), Frances Lappin (no. 13. Asgard Road), Councillor Jimmy Guerin, Richard and Sighle Conway (no. 11 Asgard Road), John Fisher (no. 8 Asgard Road), Suzanne and Toby Hallwood (no. 7 Asgard Road), Thomas P. Broughan TD, Richard and Julie Colwell (no. 15 Asgard Road), John Hynes.

² Tom Whelan, Paula Lynskey, Frances Lappin, Richard and Sighle Conway, John Fisher, John Hynes.

Precedents - Set by the Board's decision to refuse planning permission for a dwelling at no. 5 Asgard Road (PL06F.226754 and PA ref. F07A/1153). Inappropriate precedent that would be set if development was granted planning permission. The cases cited by the applicant are not relevant as they are not within Asgard Road housing estate (nos. 1 to 15). Other relevant precedents would be extensions and renovations undertaken to nos. 5, 6 and 7 Asgard Road. Balcony to no. 11 is an inappropriate precedent as it was built in the 1960s pre-dating planning legislation. Balcony at no. 11 is at the widest part of the road and is less prominent than the proposed balcony. Galtee Lodge development replaced an 80-year old lodge in very poor condition with failed foundations on a very large site. The proposed development is a very large house on a very small site.

- Overlooking - Overlooking of housing adjacent to the proposed development and opposite it and impact on privacy. In respect of nos. 4 to 7 Asgard Road, the 22m rule referred to is for rear properties on the same level and does not address appellants concerns. Proposed development will be elevated. Vegetation will be removed from no. 12 leaving no screening. Due to height of site, vegetation will not screen views from the development.
- Over development of the site and overbearing nature of development.
- Overshadowing – On adjoining properties (in particular nos. 11 and 13 Asgard Road). No shadow test carried out. Impact on light reaching bathroom window, landing and hall at first floor at no. 13 Asgard Road. Drawings submitted by applicant does not use middle of bathroom window (line chosen by applicant is higher up).
- Impact of groundworks - Impact of excavations to provide the development on adjoining/nearby property.
- Boundary treatment – Lack of clarity regarding boundary treatment and impact on existing timber fence between proposed development and no. 11 Asgard Road. Lack of clarity regarding distance of proposed building from joint boundary wall with no. 11 Asgard Road. Owners of no. 11 Asgard Road wish to retain their existing garden fence as it is part of the character of their property.

- Application details - Inadequate drawings (are incorrect, lack clarity and are confusing) and description of development and therefore, invalid application.
- Justification for development – No justification to demolish house (was lived in until recently, structurally sound). A development in keeping with the size and scale of the existing property could achieve the required energy efficiency and enable the kitchen to become the heart of the home.
- Parking - Parking on narrow road during construction.
- Access – Impact of proposed changes to entrance to no. 12 and possible impacts on existing gateway to no. 11 Asgard Road. Proposed location is dangerous and would result in cars entering and exiting neighbouring houses potentially meeting at one point.
- Other - Impact on right of way to rear of property. No roof plan submitted (for attic space)

4.0 Planning History

- 4.1. There is no recent planning history in respect of the appeal site. In the vicinity of the site the following are relevant:
- PA Ref. F08A/1206 – Permission granted for extension to rear of no. 5 Asgard Road at ground and lower ground levels, internal alterations including to front and rear upper floor windows, porch to front room, widening of vehicular access.
 - PA Ref. F07A/1153 and PL06F.226754 – Permission refused for the demolition of the existing house at no. 5 Asgard Road, and construction of new house, split level two/three storey dwelling on the grounds that, *'having regard to the narrow width of the site, the scale and bulk of the dwelling would be incongruous and intrusive feature in the street scene, would be out of keeping with the relatively consistent design of adjacent dwellings at the western end of Asgard Road and would seriously injure the visual amenities of the area'*.
 - PA Ref. F12A/0145 – Permission granted for the demolition of a single storey dwelling of 109sqm and associated outbuildings (Galtee Lodge, Asgard Road,

situated between nos. 15 and 17 Asgard Road) and replacement with a new split level dwelling over part 2 and part 3 floors of 319sqm and garage of 85sqm and the reconfiguration of the site entrance.

- PA ref. F00A/0412 and PL06F.120331 – Permission granted by the Board for a two storey part split level house, with associated garage, subdivision of existing plot with shared existing access at no. 2 Asgard Road (to the east of the road – see attachments).

5.0 Policy Context

Development Plan

- 5.1. The appeal site falls within the administrative area of the Fingal County Development Plan 2017-2023. The Plan became effective on the 16th March 2017.
- 5.2. The site is zoned RS which seeks to *‘provide for residential development and protect and improve residential amenity’*. The associated vision for the zoning is to *‘Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity’*.
- 5.3. Objective PM65 requires that *‘all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements’*.
- 5.4. Objective DMS28 states that *‘Separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs’*.

Howth SAAO, 1999

- 5.5. The appeal site lies within a residential area outside of the area of the designated Howth SAAO (see attachments).

Natural Heritage Designations

5.6. The appeal site lies in an urban area and there are not natural heritage designations in proximity to it.

6.0 The Appeal

Grounds of Appeal

6.1. There are four third party appeals in respect of the proposed development made by Tom Whelan (no. 5 Asgard Road), Dick and Sighe Conway (no. 11 Asgard Road), John Fisher (no. 8 Asgard Road) and Frances Lappin (no. 13 Asgard Road). Similar issues are raised and can be summarised as follows:

- Inaccurate and misleading application documentation: -
 - Existing building is described as a dormer bungalow but it is not, building has four bedrooms (in plans) not three (application form).
 - Plans omit shortest distances between boundaries.
 - The application contains inaccuracies and contradictions – In respect of existing and proposed ridge levels, absence of hipped roof from drawings of existing dwelling, ground levels in the area of the patio.
 - Sections provided on drawing no. 841(P-)002 in respect of no. 13 Asgard Road are inadequate to demonstrate the effect of the development on the patio and conservatory of the appellant's property.
- Overlooking and overbearing nature of the development and impacts on privacy:
 - Overlooking, caused by height and scale of first floor balcony to the front of the property, of adjoining housing and housing on the opposite side of the road. Devaluation arising from loss of amenity.
Overbearing nature of balcony due to its height, width and location on an elevated site.
 - No. 11 Asgard Road - Overlooking from balconies at ground and first floor to the front of the proposed development. West side of

balconies should be fitted with a screen/wall to prevent overlooking of no. 11. Overlooking and overshadowing of appellant's property from first floor terrace to rear of property. Impact of terrace on appellant's garage and boundary (greater height than existing ground level). High ground floor window in western elevation should be non opening and fitted with obscure glass. If permission is granted, the Board should require omission of raised balcony to the rear, refusal of proposed new entrance and pedestrian entrance, replacement of translucent glass with opaque glass on the high level bathroom window on the ground floor, satisfactory treatment of the boundary (in particular the garage wall) and strict control of the builder/building process.

- No. 13 Asgard Road – Impact on rear patio, conservatory and sitting room (the main everyday living areas). The eastern side wall of the proposed building is c.1.5m closer to the boundary than the existing and less than 1m at its closest point. The eaves level is 2.2m higher than the existing and will result in a blank wall c.5.2m high above the patio level (see photomontages in J.McSweeney appeal for Frances Lappin). The resultant bulk would be unacceptably overbearing and dominate this space. It will reduce western sunlight and cause overshadowing for the latter part of the day.
- Development is out of character within small housing estate:
 - The original Asgard Road, nos. 1 to 15, developed in the 1960s (three single storey bungalows and 12 dormer bungalows) is still clearly visible after 50 years. Development would have an overbearing and intrusive impact on the road. No other two storey house exists between no. 1 and 15. If permission was granted it would set an inappropriate precedent for similar development.
 - There is no good reason, in this instance, to allow an exception to the building line.
 - The front first floor balcony and the full width of glazed screen will be visually dominant, intrusive and overbearing and out of character with this section of road. The second storey equates to a third storey when

viewed from the ground floor level of no. 5. Eaves levels of the proposed development is c.2.2m above the common eaves levels on the south side of the road. The proposed development is out of character with the western part of Asgard Road by virtue of its substantially higher eaves, increased width and glazed screens.

- Development would contradict policies and objectives of the County Development Plan and Howth SAAO – By virtue of its location, juxtaposition, design and scale, development would adversely impact on the character and pattern of development in the area and residential amenity. Development conflicts with the zoning of the site (an 'Established Use Zone', RS the objectives of which include to protect and improve residential amenity,), policy objectives RD12 (which seeks to protect the unique and special character of the identified residential area), objective RD10 (infill sites) and policies with regard to private open space. Development also conflicts with policies of the government's guidelines on Residential Density and Sustainable Residential Development in Urban Areas (infill development).
- Scale of development – Development is a gross overdevelopment of the subject site.
- Access – Impact of new gateway to no. 12 on access to no. 11 Asgard Road. Condition no. 8a suggests that the applicants will have to get the permission of the appellant to lower the wall and allow a low (900mm) pillar on the boundary wall (see photograph on page 3 of submission by O'Neill Town Planning). There is no need for a pedestrian entrance on such a small road frontage. No other property has one.
- Boundary treatment – Owners of no. 11 Asgard Road wish to retain boundary fence, to rear of property, with no. 12 Asgard Road (which lies within their landholding). Lack of clarity regarding infill/banking proposed to take place alongside no. 11 Asgard Road garage wall. Improper treatment could either undermine the foundations, or, in the event of banking, create a dampness problem in the garage.
- Landscaping – No details provided regarding soft landscaping proposed in drawing nos. 841(P-)002 and 010.

- Precedent – Set by the Board’s determination of F15A/0107 in respect of no. 5 Asgard Road.

6.2. Observations on the Appeals

- 6.2.1. Observations were made on the appeals made by Paula and Peter Lynskey (6 Asgard Road). No new issues were raised.

6.3. Applicant Response

- 6.3.1. The applicant responds to the appeal made. Additional information, not previously set out in the application documentation is summarised here:

- Drawings submitted – There is a perception that the submitted drawings are inaccurate and misleading. This is not the case but for clarification architectural drawings are attached.
- Development plan policy and standards – Development of a replacement house is consistent with zoning of the site, with policy objectives PM44 and PM45 of the County Development Plan and with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009 (which replace the Residential Density Guidelines, 1999). The 22m separation distance between opposing above ground floor windows is achieved in the approved development. The development is based in a ‘Built-up area’ in the Howth SAAO and is, therefore, considered acceptable. The development will not have any adverse impacts on the Howth SAAO as it will preserve views and the residential amenity along Asgard Road.
- Residential amenity – The application has regard to previous approvals in the area and, having regard to the established pattern of development, will not have any negative effects on the visual amenity of the area.
- Overlooking:
 - Balcony to front of dwelling – Separation distance of c.38m to no. 5 Asgard Road is sufficient to ensure no loss of privacy (drawing no. 841(P-)021). The development is also separated from no. 5 Asgard Road by vegetation, the road and two front gardens. Condition no. 5 prevents any undue overlooking of any neighbouring properties (requirement for 1.5m opaque screen on western balcony). This is

provided for in drawings submitted with the application. The balcony will not overlook any private open space.

- Translucent window on the west elevation – This will not cause any harm to the residential amenity of no. 11 Asgard Road.
- Terrace to rear – Currently it is possible to look up into the garden of no. 11 Asgard Road from the rear garden of the appeal site. The proposed 1.8m boundary fence will reduce the potential for overlooking (drawing no. 841(P-)005). The rear private garden will not be higher or lower following the development, so there will be no increase in overlooking. Trees within the curtilage of no. 11 Asgard Road, along the boundary, will further prevent overlooking.
- Overshadowing – No empirical evidence provided by appellants to demonstrate that this will occur. The proposed development will result in a minor change to the shadow environment of the surrounding area. It is predicted that the shadows cast by the development would result in an ‘imperceptible’ change in the overshadowing environment for the surrounding area (section 3.3. of the 2011 BRE Handbook and Chapter 2.3 of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE, 2011), drawing no. 841(P-)010A).
- Impact on character of road – Under PA ref. F12A/0145 (two storey replacement dwelling at Galtee Lodge, Asgard Road) a two storey development has been approved only four houses away from the subject site (Figure of 11.0 of applicant’s response document and drawing no. 841(P-)010A). There are several three storey developments on Asgard Road, in close proximity to the appeal site (Figure 12.0 appellant’s response document). Under PA ref. F00A/0412 and PL06F.120331 a two storey, part split level infill dwelling within the grounds of Montebello House, was granted by the Board at appeal. The Board considered that the development of contemporary design was acceptable.
- Entrance to property – The proposed entrance to no. 12 will provide good access for vehicles and there will be no impact on neighbouring properties, including no. 11 Asgard Road (see Figure 15.0 in response document).

- Landscaping and boundary treatment:
 - Soft landscaping along western wall – Soft landscaping along western boundary will have no negative impact on no. 11 Asgard Road (drawing no. 841(20)004).
- Private open space – Dwelling has been designed to avoid overlooking or overshadowing of private open spaces and will not be overbearing in nature. The terrace to the rear will have a boundary wall on the west which will prevent overlooking to the west. Balcony to front will have opaque screen at western side to prevent overlooking of garden of no. 11. The development will have no directly opposing rear first floor windows. The proposed development is for a replacement dwelling which is similar to the existing on site. It will be slightly taller and will not be so excessive to cause harm to the visual amenities in the area.
- Application documentation – All details set out in the application, and following assessment of further information, were considered to be acceptable by the planning authority.
 - Levels – Drawing no. 841(10)001 shows the existing site plan with ground levels in the area of the patio to be 65m and 65.5m. Drawing indicates that rear garden levels will be adjusted. Drawing no. 841(P-)022, Cross Section 3 shows the first floor level at 66.49 and the increase in the site level outside the kitchen door (see also Figure 16.0 of response document).
 - Height – When added together the dimensions result in a ridge level of 71.79m. This is now indicated in the architectural drawings (drawing no. 841(P-)010B).

6.4. Planning Authority Response

6.4.1. The planning authority make the following comments on the appeal:

- The Residential Density Guidelines, as contained on page 7 of the O’Neil Town Planning Consultants document, do not apply. The proposed development is for a replacement dwelling.

- The term 'Established Use Zone' (page 7) is not used within the Development Plan and does not have a specific meaning outside of the planning appeal document.

7.0 **Assessment**

7.1. Having regard to the information on file, policies of the Fingal County Development Plan 2017 - 2023 and my inspection of the appeal site, it is my view that the key issues for this appeal relate to the following matters:

7.2. **Principle**

7.2.1. The proposed development comes forward on land zoned for residential development RS in the current Fingal County Development Plan, which seeks to provide for residential development and protect and improve residential amenity. The development comprises a replacement dwelling and is therefore acceptable in principle.

7.3. **Precedents**

7.3.1. Parties to the appeal refer to other applications for residential development which have been determined in the immediate vicinity of the appeal site, further east along Asgard Road and in the wider area. I recognise that each of these developments has come forward within its own site specific context, with the planning authority or Board's determination having due regard to the impact of the development on the character of the area and the amenity of adjoining properties. For instance, the application approved under PA ref. F12A/0145 (Galtee Lodge, Asgard Road) for a substantial contemporary development, is not sited within original 15 nos. properties comprising the Asgard Road estate, came forward on a large site and with the proposed development offset from adjoining properties. Similarly, the Board's decision to grant permission for a contemporary dwelling under PL06F.120331 at the western end of Asgard Road had regard to the pattern of development in the area, the size of the site, the height and design of the proposed development and the proposed retention of mature trees on the site.

7.3.2. In contrast, the Board's decision to refuse permission for a two/three storey development at no. 5 Asgard Road, had regard to the scale and bulk of the dwelling

and its specific location of the development within the '*relatively consistent design of adjacent dwellings at the western end of Asgard Road*'. Whilst I would accept the applicant's argument that there are many precedents for contemporary development in the vicinity of the site, and for two storey development, I do not accept that these provide a *carte blanche* for similar development on the appeal site and that any such development must be determined on its own merits and having regard to its site specific context.

7.4. Impact on Streetscape

- 7.4.1. The western end of Asgard Road is characterised by the relatively common appearance of nos. 1 to 15 Asgard Road, comprising a mix of bungalows and hipped roof houses with accommodation at first floor and in the roof space. More recent development, to the north west of the appeal site, at nos. 6 and 7 Asgard Road, has maintained this character.
- 7.4.2. The existing bungalow is stepped back from no. 13 Asgard Road, and forward of no. 11 Asgard Road, to facilitate the turning head at the western end of the cul-de-sac. The property, and detached garage, extend across most of the site, with adjoining development similarly occupying the width of the adjoining plots. However, the existing bungalow and adjoining properties at nos. 11 and 13 have either a hipped roof or an A shaped roof such that at first floor level/roof level, properties are visually quite separate. Further, the existing property is virtually hidden in view from the public road due to its bungalow form and mature landscaping on the site.
- 7.4.3. The proposed development maintains elements of the existing pattern of development, for example, presenting the gable end of the dwelling to the public road, maintaining a similar maximum ridge level. However, with its double apex form, increased eaves height and extension at first floor level across the narrow site, it differs substantially in its scale and massing from existing development at the western end of the road. Further, with the loss of mature vegetation to the front of the site, and associated works to the driveway, the substantial development on the elevated site would be significantly more visible than the existing property. I would consider, therefore, that the development would be at odds with the existing pattern of development on the western end of Asgard Road and that, due to its scale and massing and elevation of the site, it would be overly dominant when viewed from the

public road, inconsistent with and detract from the character and amenity of the existing streetscape.

7.5. **Overlooking**

- 7.5.1. A number of issues arise in respect of overlooking and I deal with each of these in turn:

Housing Opposite the Appeal Site

- 7.5.2. The existing dwelling on the appeal site, and the proposed dwelling, are situated on more elevated topography than properties along the northern side of Asgard Road. Third parties have raised concerns regarding overlooking from the first floor living area and the balcony to the front of the development, of housing directly opposite, including nos. 4 to 6 Asgard Road.
- 7.5.3. Currently views from the front of no. 12 Asgard Road, of properties on the northern side of the road, are obscured by mature vegetation to the front of no. 12 and within the front gardens of the properties opposite. I would accept in principle that the proposed development, with its living accommodation at first floor and loss of mature vegetation, would facilitate greater views of properties on the northern side of the road from the appeal site. However, the proposed development is c.38m south of the properties opposite. Reference has been made to the government's and the development plan standard of 22m between directly opposing rear first floor windows. Whilst these do not strictly apply, given that it is opposing front first floor windows in this case, the 22m referred to does provide an adequate level of separation to ensure privacy of overlooking housing. With a substantially greater separation distance, and the public domain into which properties north and south of Asgard Road face, it is unlikely that the proposed development will significantly impact on residential amenity of opposing properties (drawing no. 841(P-)021).

No. 11 Asgard Road

- 7.5.4. No. 11 Asgard Road lies to the west of the appeal site. The residential property is situated c.5.5m behind (south of) the building line of the existing bungalow at no. 12 Asgard Road (drawing no. 841(P_)001). To the east of the dwelling is a garage and to the rear of the dwelling is a shallow yard with steps up to the rear garden. The properties are separated by mature and semi-mature vegetation planted on each side of the shared boundary.

- 7.5.5. The proposed development is cut into the appeal site such that the ground floor will have a finished floor level of +63.490. This compares to the existing finished floor level of +64.78 i.e. it will have a ground floor level which is c.1.29m below the level of the existing dwelling. To the front of the proposed property is small terrace which can be accessed from two bedrooms in the ground floor, with the terrace facing both north and west. The plans for the development do not clearly indicate the change in levels across the appeal site and the adjoining property at no. 11 Asgard Road. However, situated at a lower level than no. 11 Asgard Road and separated by the existing wall, views between the properties would be possible including overlooking of the proposed bedroom accommodation from the driveway of no. 11 Asgard Road. At first floor the western end of the proposed balcony would also overlook the front garden of no. 11 Asgard Road. In order to protect the residential amenity of the property at no. 11 Asgard Road (and the ground floor of the proposed dwelling), I would recommend, therefore, appropriate screen planting along the western boundary of the appeal site and the provision of 1.5m high screening at the western end of first floor balcony. These matters could be dealt with by condition.
- 7.5.6. To the rear of the proposed development, the applicant proposes raising the level of the rear garden outside the kitchen area, to connect the kitchen to the garden, and to provide a patio area external to the kitchen. From the plans submitted it would appear that the patio would have a finished floor level of +66.490m (drawing no. 841(P-)020). As can be seen from drawing no. 841(P-)022, the first floor of the proposed development, and adjoining patio, would be finished c.1.4m below the height of the adjoining garage on the property of no. 11 Asgard Road. There are no details on file to indicate how the proposed patio floor level would interface with the adjoining property and existing boundary planting. However, this matter is a technical one which could be resolved by condition.
- 7.5.7. Notwithstanding the above, I would also accept that in principle a 1.8m screen along the western side of the proposed patio and 1.8m boundary fence to the rear of the property would prevent overlooking of the adjoining rear garden at no. 11 Asgard Road.
- 7.5.8. The appellant's (no. 11 Asgard Road) also draw the Board's attention to the following:

- Overlooking arising from glazing at roof/attic level of the proposed development. However, my understanding of the plans is that this refers to a rooflight over the integrated terrace (drawing no. 841(20)004).
- Overlooking from ground floor windows. In the western elevation of the proposed development, at ground floor, two openings face no. 11 Asgard Road, one high level window serving a bathroom and a door and window serving a bedroom. I note that the bathroom window will be translucent and that the bedroom door/window will face the garage wall on no. 11 Asgard Road. No overlooking issues will therefore arise.

No. 13 Asgard Road

7.5.9. The owner of no. 13 Asgard Road raises concerns regarding overlooking of the existing conservatory, patio and sitting room to the rear of no. 13 Asgard Road as a consequence of the proposed development. However, I note that the terrace to the rear of the proposed development, on its eastern side, will be cut into the appeal site. Further, a 1.8m high timber fence is proposed along the eastern boundary of the site. Having regard to these details, I do not consider that overlooking will arise from the ground floor patio area to the rear of the proposed development. However, I would be concerned that overlooking may arise from the patio area proposed external to the kitchen. However, this matter could be dealt with by condition, requiring the applicant to provide additional screening along the eastern boundary of the patio area or along the eastern boundary of the site with no. 13 Asgard Road.

7.6. **Overshadowing**

- 7.6.1. Third parties raise concerns regarding overshadowing arising from the proposed development, in particular, on nos. 11 and 13 Asgard Road. Having regard to the orientation of no. 11 Asgard Road relative to the appeal site i.e. sitting south west of the proposed development, I do not consider that it would impact on no. 11 by way of overshadowing.
- 7.6.2. With regard to no. 13 Asgard Road, this property enjoys morning sun from the east and evening sun from the west. The proposed development will introduce a building of greater bulk form and height than the existing bungalow, in close proximity to no. 13 Asgard Road. Whilst I accept that the proposed development will not significantly impact on sunlight reaching the first floor bathroom of the property (having regard to

the application of the BRE guidelines), I would be concerned that the effect of the development on afternoon and evening sunlight to the conservatory, patio and sitting room of the property has not been adequately assessed and there is a risk that the proposed development, situated in close proximity to its western elevation and south east of it could significantly detract from sunlight reaching this area.

7.7. Overbearing nature of development

7.7.1. The proposed development replaces a relatively modest bungalow with a low eaves height of c.67m with a more substantial property with an eaves level of 69.290 (drawing nos. 841(10)010 and 841(P-)010). In the vicinity of no. 13 Asgard Road, this will present a substantial elevation to the rear of the property, in close proximity to it i.e. to within 1m of the shared boundary wall and patio area. And in this regard I would consider that the proposed development would be overbearing on no. 13 Asgard Road.

7.7.2. With regard to no. 11 Asgard Road, the proposed development would sit forward of the existing property and be separated from it and the private open space enjoyed by the property to the west of the house, by the garage to the east of no. 11 Asgard Road. I do not consider therefore that it would be overbearing on this property.

7.8. Impact of groundworks

7.8.1. I do accept that the appeal site will require groundworks to cut the proposed development into the appeal site. However, the proposed cut into the ground is not particularly substantial and will be controlled by appropriate building control standards.

7.9. Application details

7.9.1. The appellants refer to matters set out in the application form and I comment on these briefly below:

- Description of existing development – I would accept that the existing dwelling on the appeal site would be more accurately described as a bungalow, with its hipped roof, rather than a dormer dwelling. However, this description (and the associated drawings of the building) has been accepted by the planning authority and does not have a material bearing on the merits of the proposed development.

- Description of proposed development – Again, I would accept that there is a discrepancy between the description of the proposed development in the application form and that shown in the plans. However, again, this description has been accepted by the planning authority (who are responsible for the validation of the application form) and does not have a material bearing on the merits of the proposed development.
- Distances to boundaries – I do not accept this point made by the applicant. Distances to boundaries are shown on the plans lodged, including shortest distances (e.g. drawing no. 841(P-)002).
- Ridge level – I would accept that minor discrepancies between drawings showing the ridge level of the proposed development. I note that the applicant has clarified the ridge level to be +71.79, relative to the ordnance survey reference level of +60, in plans submitted to the board in response to the appeals (drawing nos. 841(P-)010B and 841(P-)022A).
- Adequacy of plans to demonstrate the effect of the development on no. 13 Asgard Road – This matter is discussed above.
- Ground levels in patio area – I note that these are indicated in drawing no. 841(10)001, both contour levels and spot levels.

7.10. **Boundary treatment**

7.10.1. The plans presented by the applicant indicate 1.8m timber fencing to the rear of the along its boundaries with the adjoining property. Similarly, to the front, soft landscaping is shown within the existing perimeter walls, which do not appear to be altered. Notwithstanding this, I would accept that there is a lack of clarity regarding the treatment of boundaries with adjoining properties, in particular, where changes in levels arise. I have commented on this matter above, in my assessment of the issues arising and I consider that, if the Board are minded to grant permission for the development, it could be dealt with by condition.

7.11. **Access**

7.11.1. The appeal site lies on a short cul-de-sac where I observed few traffic movements. The applicant proposes moving the vehicular access for the site to the west of the sit and providing a pedestrian access to the east of this (drawing no. 841(P-)002A).

Having regard to the small number of vehicle movements likely to arise from a residential property, and subject to the provision of front boundary wall to a reduced height of 900mm, I would not consider that the proposed development would give rise to traffic hazard on the public road or with traffic using the access to the adjoining property at no. 11 Asgard Road.

7.11.2. Any matters arising regard to alteration of the shared boundary wall are legal ones which fall outside the scope of this appeal.

7.12. Parking

7.12.1. I would accept that Asgard Road is a narrow public road and that the parking of construction traffic should be addressed by way of condition.

7.13. Policies and objectives of the County Development Plan

7.13.1. Having regard to the issues discussed above, I consider that the proposed development by virtue of its scale and massing, would be an incongruous and intrusive feature in the street scene, would be inconsistent with the relatively consistent design of residential properties at the western end of Asgard Road and would be overbearing on adjoining residential properties. I consider that it would therefore adversely impact on existing residential amenity and be inconsistent with the zoning of the site and policies of the Fingal County Development Plan, 2017-2023.

7.14. Other Matters

7.14.1. Third parties question the justification for the proposed development. However, I note that the property, as a 1950s dwelling, is in need of repair/modernisation. The property is not a protected structure and the applicant is entitled to bring forward a planning application for the redevelopment without justification.

7.14.2. Third parties refer to the impact of the proposed development on a right of way to the rear of the property. Whilst this is a legal matter and one which therefore lies outside of this appeal, I do draw the Board's attention to the letter on file from the applicant's solicitor which states that the deeds to the property do not refer to any right of way.

7.14.3. I note that the plans for the development do not indicate attic space. However, this is acceptable as the plans clearly show provision of accommodation only at ground and first floor.

7.14.4. Finally, I note that the applicant provides little information on the nature of landscaping to be provided in the development. However, this matter does not have a significant bearing on the proposed development and could be addressed by way of condition.

8.0 Recommendation

8.1. Having regard to the matters discussed above, I consider that permission for the proposed development should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the narrow width of the site, its elevated height above the public road and the scale and bulk of the proposed development, it is considered, that the proposed development would be incongruous and intrusive in the streetscape, out of keeping with the relatively consistent design of adjacent dwellings at the western end of Asgard Road and overbearing on adjoining properties. The proposed development would, therefore, be contrary to the policies and objectives of the Fingal County Development Plan 2017-2020, which seek to protect and improve residential amenity, and to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

8th May 2017