



An
Bord
Pleanála

Inspector's Report ABP301294-18

Development	1. Demolition of existing single-storey annex, car port and outbuildings. 2. Conversion of existing garage to shower-room and stores and new single-storey sunroom to the rear. 3. Construction of a 4-bed two-storey detached dwelling in side garden.
Location	1 Hawthorn Lawn, Castleknock, Dublin 15.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW18A/0010.
Applicant(s)	Theresa and Patricia Leonard.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant(s)	(i) Brian and Rita Hayes, (ii) Fergal and Phyllis Moffit.
Observer(s)	None.
Date of Site Inspection	27 th July, 2018.
Inspector	Paul Caprani.

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1.0 Introduction

ABP301294-18 relates to a 2 no. third party appeals against the decision of Fingal County Council to issue notification to grant planning permission for the demolition of an existing single-storey annex, car port and outbuilding and conversion of an existing garage to shower-room and stores, together with the construction of a new single-storey sunroom to rear and the construction of a detached two-storey four-bedroomed dwellinghouse and new vehicular entrance to the sides of an existing dwelling at Hawthorn Lawn, Castleknock, Dublin 15. The decision of Fingal County Council to issue notification to grant planning permission was appealed by the residents of two adjoining dwellings on the grounds that the proposed development would have an unacceptable impact on adjoining residential amenity.

2.0 Site Location and Description

- 2.1. The subject site is located within a suburban residential area to the north-west of Castleknock Village in West Dublin. No. 1 Hawthorn Lawn forms part of a 1970/80's suburban residential estate to the north of the Castleknock Road. The subject site faces northwards onto a local access road and accommodates a large detached two-storey dwellinghouse. The dwellinghouse currently accommodates living accommodation at ground floor level with a garage, car port and utility room located on the western side of the house. Two separate single-storey flat roofed buildings are located to the west and rear of the dwelling. These buildings accommodate a shed and an office. A large landscaped back garden is located to the rear of the dwellinghouse. The western boundary of the site separates the subject site from the rear gardens of No. 1 and 2 'The Hawthorns', in a small residential cul-de-sac to the west. The rear gardens of no. 1 and 2 back onto the western boundary of the subject site. Both these dwellings incorporate sunrooms to the rear. These dwellings incorporate a back-garden lengths of between 10 and 12 metres. The single-storey sunroom/conservatories to the rear are located between 4 and 6 metres from the western boundary of the site.

2.2. The subject site has a total site area of 880 square metres and has a site width of approximately 20 metres and a site depth ranging between 33 and 48 metres. The rear/southern boundary of the site backs onto the north-eastern boundary of a large dwellinghouse facing onto the Castleknock Road to the south-west of the subject site. No. 2 Hawthorn Lawn is located to the immediate east of the subject site and also faces north. It comprises of a large detached two-storey dwelling.

3.0 **Proposed Development**

Planning permission is sought for the following on the subject site.

The demolition of the car port and utility room along the western boundary of the site together with the single-storey shed and outdoor single-storey office building adjacent to the western boundary of the site.

It is also proposed to convert the existing garage area to a large shower-room and smaller utility room. It is also proposed to incorporate a new modest sized single-storey sunroom to the rear (c.2.55 metres x 4.5 metres) within the existing patio area to the south of the kitchen serving the existing house.

Thirdly it is proposed to subdivide the existing plot into two separate plots in order to accommodate a new two-storey dwelling to the west of the existing building. This new two-storey dwelling is to be located on a plot size of 422 square metres (the residual plot serving the existing house will be reduced to 458 square metres). The proposed dwellinghouse is to be located 1.45 metres from the western gable of the existing dwelling and between 1.2 and 2.1 metres from the western boundary of the subject site.

It is proposed to construct a relatively narrow dwelling unit on the subject site with the maximum width being just less than 7 metres and an overall length of just less than 19 metres. It is proposed to provide living accommodation at ground floor level with three bedrooms at first floor level and an additional bedroom at attic level. The dwelling is to incorporate a pitched roof rising to a maximum height of 8.225 metres. It is proposed to incorporate a fine render finish together with a selected brick finish to match the existing dwellinghouse at No. 1 Hawthorn Lawn.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Fingal County Council issued notification to grant planning permission for the proposed development subject to 15 conditions.

4.2. Documentation Submitted with the Application

- 4.2.1. The application was accompanied by a planning application form, site notice and a planning covering letter. The planning covering letter deals with the planning history associated with the site and a previous refusal for a dwellinghouse under FW17A/0117 (see planning history section below). The report submitted argues that the current proposal successfully overcomes the reasons for refusal in respect of the previous application. The covering letter goes on to suggest that the proposal complies with all qualitative standards set out in the development plan in relation to overlooking, separation distances, overshadowing etc. and details of an overshadowing analysis for the vernal equinox, mid-summer and mid-winter are also submitted.

4.3. Planning Authority Assessment

- 4.3.1. A report from the Water Services Section stated that there was no objection to the proposal subject to standard conditions.
- 4.3.2. A report from Irish Water stated that there was no objection subject to standard conditions.
- 4.3.3. A report from the Transportation Planning Section stated that there is no objection to the proposed development subject to standard conditions.
- 4.3.4. Two letters of objection were submitted from the current appellants (Nos. 1 and 2 The Hawthorns). The contents of these letters have been read and noted.
- 4.3.5. The planner's report sets out details of the site and its surrounding and the proposed development together with relevant development plan objectives. It also sets out the planning history associated with the site and notes that submissions and observations on file. The report also notes that pre-planning consultations took place

in which it was confirmed that after considerable efforts and consultations, the proposed development was considered to be acceptable subject to a complete planning analysis.

- 4.3.6. The planner's report goes on to assess the proposed development in the context of the principle of development, the layout and the design and the impact of the proposal in terms of visual and residential amenity. It concludes that the proposed development is in keeping with adjoining and adjacent developments and it is not considered that the proposal would detract significantly from the character or amenity of adjoining development. Therefore, the proposal was considered to be in accordance with the proper planning and sustainable development of the area. It is therefore recommended that planning permission be granted for the proposal.

5.0 Planning History

- 5.1. Details of one application relating to the subject site is contained in a pouch at the rear of the file. Under Reg. Ref. FW17A/0117 Fingal County Council refused planning permission, on the 1st September, 2017, for the demolition of an existing single-storey annex, car port and outbuildings together with the conversion of the existing garden to shower-room and stores and the construction of a two-storey, four-bedroomed dwelling on the subject site. Fingal County Council refused planning permission for three reasons which are set out in full below.

1. *Having regard to the pattern and scale of development in the area, it is considered that the proposed development of a detached house in a side garden of an existing dwelling represents an overdevelopment of a restricted site, would be out of character with the development of the area, and would be visually obtrusive especially when viewed from adjoining properties on Hawthorn Lawn. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development, by virtue of its proximity to rear boundaries of neighbouring houses to the west, would result in an overbearing onto and a poor outlook particularly from House No. 1 The Hawthorns. In this regard it*

would result in an unacceptable level of loss of amenity and as such would be contrary to the zoning objective of the site of the area i.e. “provide for residential development and protect and improve residential amenity”.

3. *The proposed development by lack of separation distance between itself and the existing property at No. 1 Hawthorn Lawn is in contravention of the Fingal Development Plan 2017 – 2023 Objective DMS29 as follows: “ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units” and thereby would be contrary to the proper planning and sustainable development of the area. Details of the planner’s report in respect of the above application is also contained on file.*

6.0 Grounds of Appeal

- 6.1. The decision of Fingal County Council to issue notification to grant planning permission was subject to two third party appeals which are detailed below.

6.1.1. Appeal by Brian and Rita Hayes

These appellants reside at No. 2 The Hawthorns. The appeal states that there is no objection to the principle to a development on the subject site. However, it needs to be appropriate to the site size and take cognisance of neighbour properties. The proposal represents an overdevelopment of the subject site and is out of character with the area. The proposal envisages a very large three floor, four-bedroomed house on a modest plot. A road frontage of 7 metres is totally inappropriate and out of context with prevailing road frontage widths in the area. The overall height of the building is also deemed to be excessive. The proposal will adversely impact on the value of properties in the vicinity.

It is noted that Fingal County Council in granting planning permission for a single-storey extension to the rear of the appellants’ property, limited the height to 3.5 metres.

The proposed development will also result in excessive overshadowing and blocking of light. The shadow casting diagram submitted indicate that the proposal will have an unacceptable impact in terms of overshadowing in March and October.

Concerns are expressed that the windows at first floor level will have a direct view of the appellants' private garden and living room extension. The separation distance between the first floor windows on the proposed dwelling and the rear of the appellants' dwelling is less than 22 metres and is estimated at approximately 11 metres.

It is considered that the proposed development will have an overbearing impact as it extends over a length of 14 metres. The proposed two-storey house is approximately 8 metres closer to the appellants' property than the existing dwelling on site. The proposal is contrary to the zoning objective which seeks to 'protect and improve residential amenity'.

The proposed development does not ensure separation distance of at least 2.3 metres from the boundary as required in the Fingal Development Plan Objective DM29.

Concerns are expressed that the proposal now includes a dormer bedroom which really accentuates the overbearing nature and will increase the possibility for overlooking.

It is also suggested that there has been an inconsistent display of the site notice and the removal of the notice during the planning period.

For the above reasons it is requested that planning permission be refused.

6.2. Appeal by Fergus and Phyllis Moffitt

- 6.2.1. A second third party appeal was submitted by Thornton O'Connor Town Planning Consultants on behalf of the Residents of No. 1 Hawthorn Lawn.

Again, this planning appeal states that the appellants are not opposed to the principle of development but argue that the development, as currently designed, will have a severe negative impact on the residential amenity and enjoyment of their home.

It is argued that the zoning objective at this location aims to protect and improve residential amenity and the development contravenes this objective.

The grounds of appeal argue that the previous reasons for refusal have not been addressed in the current scheme and as a result, the proposal will still result in the

overdevelopment of a restricted site and be visually obtrusive and overbearing on the appellants' property. It is argued that the size and scale of the development is totally inappropriate for such a restricted site.

The height of the proposed development is inappropriate and will have profound negative impacts on the residential amenity of the appellants' property. It is noted that the maximum height of the proposed dwelling will be 8.926 metres whereas the maximum height of the refused dwelling in 2017 was only 6.485 metres.

The overall depth of the dwellinghouse at just less than 19 metres is completely unacceptable in such close proximity to the boundary and will result in a building of a substantial mass and scale which will result in an overbearing impact.

It is argued that the proposed development will adversely impact on the infiltration of daylight to the appellants' property. A daylight and sunlight assessment prepared with reference to BRE Standards was not provided as part of the application.

Reference is made to a recent precedent decision at Cuala, at Greenfield Road, Dublin 13 where the Board refused planning permission for a similar type development in a suburban residential area near Howth.

It is argued that the proposed development does not incorporate sufficient separation distances between the proposed dwelling and the existing dwelling at No. 1 Hawthorn Lawn. It is an objective of the development plan that a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units. This non-compliance was cited in the third reason for refusal issued by Fingal County Council in respect of the previous application on site.

The provision of a window on the northern elevation of Bedroom No. 3 at first floor level may give rise to oblique overlooking of the appellants' property. And this would adversely impact on the appellants' residential amenity. This was not adequately assessed in the planning officer's report.

It is further argued that the planning application documents do not clearly state the height of the velux windows/rooflights and therefore it is not clear if they are positioned at an appropriate height above eye level. This in turn could give rise to significant overlooking. It is argued that the base of any required velux window/rooflight should be positioned at least 1.8 metres above eye level to ensure that no opportunity for overlooking of the appellants' property arises.

The appellants have serious concerns in respect of the sightlines provided from the proposed new vehicular access to the front of the proposed dwelling at Plot No. 2.

Finally, it is argued that the proposed garage conversion to the front of existing No. 1 Hawthorn Lawn is inappropriate. This is a more minor concern to the appellants but the Board however should note the unappealing design of this conversion with the incorporation of a predominantly blank wall with glazed window.

For the above reasons it is argued that the decision of Fingal County Council should be overturned and planning permission should be granted for the proposed development.

7.0 Appeal Responses

7.1. Response from Fingal Co. Council

- 7.2. Fingal County Council submitted two separate responses to the grounds of appeal. **In its submission dated 28th April, 2018**, the response states that the Planning Authority consider that the issues raised within the third party appeal were fully addressed during the planning application process. However, the following is stated in order to assist the Board in its determination. It is argued that in terms of overshadowing and blocking of light, the Planning Authority is satisfied that the proposed development does not result in undue overshadowing or blocking of light to neighbouring properties. While the Planning Authority did have some concerns with regard to overlooking of neighbouring properties, however Condition No. 2 is attached to the notification to grant planning permission to address these concerns. With regard to the dormer window feature to the rear roof plane, this dormer is considered to be modest in scale and will not unduly impact on the amenity of neighbouring properties. Should the Board consider that any overlooking arising from the dormer to be unduly excessive, the Planning Authority would have no objection to an appropriate alternative arrangement.
- 7.3. In terms of being overbearing, the site and scale and design of the proposed dwelling is considered to be acceptable. It is argued that the proposal does comply with Objective DMS29 as this relates to distances between external walls of dwellings rather than boundary walls.

- 7.4. The Planning Authority inspected the site notice and considered that it was correctly displayed. The Planning Authority remains firmly of the opinion that the proposed development is in accordance with the character of the area.
- 7.5. A separate submission from Fingal Co. Council was received **dated 8th May, 2018**. It is summarised below.

It is not accepted that the previous reasons for refusal still apply. It is argued that significant changes have been proposed in the current application with regard to layout. The current proposal has been assessed on its own merits. It is considered that the plot size is appropriate to accommodate a development of the size and scale proposed. It is also considered that the overall height of the ridge line for the new dwelling is higher than that previously refused but the proposal incorporates a more traditionally shaped roof. It is not accepted that the proposed development due to its size and scale will have an unacceptable overbearing impact. Points in relation to minimum separation distances between dwellings as set out in the development plan are reiterated. The height and scale of the proposed development from the western boundary wall of the site (rear wall of the appellant's site) is deemed to be acceptable.

Any overlooking from Bedroom No. 3 is not considered to be significant. However, should the Board deem it appropriate, Fingal County Council would have no objection to an appropriate rearrangement of the fenestration. Condition No. 2 is attached to address any potential concerns in respect of overlooking.

Access arrangements and the design of the garage are deemed to be acceptable by the Planning Authority.

7.6. Appeal Response by Theresa and Patricia Leonard (Applicants)

By way of introduction it is stated that the proposed development is predicated on two needs. Firstly, to upgrade and refurbish the applicants' elderly mother's home so as to better cater for her physical needs and secondly to provide the applicants' family with a family home on a plot to the side of the existing house where the applicants' mother can be readily cared for.

The applicant took note of the reasons for refusal of the previous application and incorporate numerous measures in order to overcome the reasons set out in the Planning Authority's refusal.

This included reducing the floor area from 186.5 square metres to 154.1 square metres. The proposed development was redesigned to counter concerns in relation to being overbearing. The building has also been redesigned to ensure that it blends in with its environs and will not be visually obtrusive.

The proposal has also been redesigned to ensure that it does not result in significant overdevelopment of the subject site. The overall size and scale of the building has been broken down. The plot is of adequate size to cater for the development and the overall area of the site for the proposed development is 422 square metres which is similar to both the plots on which the appellants' houses are located. The response sets out comparative site development standards for Plot Nos. 1 and 2 relating to the subject proposal, and also the plots on which the appellants' houses are located (see section 3 of response). With regard to roof height and length, it is stated that the maximum height of the proposed dwelling is 8.4 metres. Reference on one of the grounds of appeal to a height of 8.9 metres is not correct and does not take into consideration that the height is measured from a sunken patio area. It is also stated that the depth of the house mirrors the two-storey depth of the existing house at 1 Hawthorn Lawn. It is suggested that the appeal submitted on behalf of the appellant at No. 1 The Hawthorns provides inaccurate and misleading information in relation to the size and height of the dwelling.

With regard to overshadowing, it is argued that there will be no substantial increase in overshadowing at No. 1 or No. 2 The Hawthorns and a shadow study prepared by RME Digital Solutions demonstrates that the concerns of both appellants are unfounded.

In respect of the separation distances between No. 1 and No. 1A, it is stated that the proposal affords a separation distance of 1.45 metres between the dwellings and there are numerous precedents for similar developments in the Castleknock area which allow separation distances as low as 1 metre. These precedents are cited in the grounds of appeal.

With regard to overlooking, it is stated that complete freedom from intrusion is rare in a suburban context and is nearly impossible to achieve. Inevitably in a suburban context, some levels of oblique overlooking will occur. It is argued that oblique levels of overlooking currently occur between No. 1 and No. 2 The Hawthorns (both the

appellants' dwellings). The proposal will not result in any excessive overlooking in the case of No. 1 or No. 2 The Hawthorns. Furthermore, the Council by imposing conditions 2(a) and 2(c) have adequately addressed concerns in relation to overlooking. Velux windows on the western roof face have been removed by Condition No. 2(b) of the Planning Authority's grant of permission.

With regard to the precedent set under Reg. Ref. 249381, it is suggested that after close examination of the drawings and the An Bord Pleanála inspector's report, it is suggested that 'Cuala' (the suburban infill that the grounds of appeal cited as a precedent decision) does not provide a precedent given the marked differences in the site and building design.

Finally, it is stated that Condition No. 8 of the Planning Authority's grant of planning permission fully addresses the issue of sightlines from the proposed new entrance.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Fingal County Development Plan 2017 – 2023. The subject site is governed by the zoning objective 'RS' - to provide for residential development and protect and improve residential amenity. Relevant development plan objectives include Objective PM45, which seeks to promote the use of contemporary and innovative design solutions subject to respecting the character and architectural heritage of the area.
- 8.2. DMS39 seeks to ensure that 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.
- 8.3. Objective DM28 seeks to ensure a separation distance of a minimum of 22 metres between directly opposing first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential development over three storeys of minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

- 8.4. Objective DMS29 seeks to ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.
- 8.5. Table 12.1 sets out the minimum internal space standards for houses. In the case of a four-bedroomed, six person, three-storey house, the minimum gross floor area shall be 115 square metres. The dwelling main living room will be 15 square metres and the aggregate living area will be 37 square metres. A dwelling aggregate bedroom area of 36 square metres would be required and a storage area of 6 square metres would be required.

9.0 **Planning Assessment**

I have read the entire contents of the file, have had particular regard to the Planning Authority's decision to grant planning permission, and the issues raised in the grounds of appeal. I have also visited the subject site and its surroundings. I consider the pertinent issues in determining the current application and appeal before the Board are as follows:

- Principle of Development
- Size and Scale of the Development
- Impact on Residential Amenities
- Visual Impact
- Site Notice Issues
- Precedent Decisions
- Sightlines at the Proposed New Access

9.1. **Principle of Development**

- 9.1.1. The subject site is zoned RS which seeks to provide for residential development and protect and improve residential amenities. The fact that the land use zoning objective seeks to provide for residential development suggests that any new residential development, subject to qualitative safeguards would be acceptable in principle under the land use zoning objective.

9.1.2. The recent adopted National Planning Framework also seeks to ensure that cities and urban areas in general incorporate more compact growth as opposed to continued suburban and urban sprawl. The facilitation of infill development therefore, again subject to qualitative safeguards within existing suburban areas, would be in accordance with such a strategy. I therefore consider that the principle of residential development is acceptable on the subject site, subject to compliance with the qualitative evaluation below.

9.2. **Size and Scale of the Development**

9.2.1. Both appellants argue that the proposal represents an overdevelopment of the site on the grounds that:

- The plot is too small to accommodate a dwellinghouse of the size and scale proposed.
- The proposed dwellinghouse is of excessive height.
- The proposed dwellinghouse will have an overbearing impact on adjoining properties to the west due to excessive bulk.

Each of these issues will be dealt with below.

The existing site on which No. 1 Hawthorn Lawn is located is very generous in size. It amounts to some 880 square metres which equates to approximately five houses per acre at just over 10 houses per hectare. It is proposed to subdivide the plot whereby the residual garden accommodating the existing house would amount to 458 square metres while the proposed dwelling to the west amounts to 422 square metres. The subdivision of the plot would not be inappropriate in terms of overall suburban density, and would result in a site coverage of about 25% and a plot ratio of 0.37. The total amount of private amenity space to be provided surrounding the dwelling amounts to 212 square metres which in my view is more than adequate to cater for the needs of a private residential dwelling. The proposal cannot be considered to be excessive in terms of qualitative standards.

With regard to the overall height of the dwelling concern is expressed that the proposal in this instance is higher than the dwelling previously refused on site. While this may be the case, the fact remains that the building at 8.4 metres in height which is not atypical for a two-storey suburban dwellinghouse. In respect of the previous

proposal which was refused by Fingal County Council, it appears that this proposal represented a contemporary design with a flat roof; and in order to allay concerns in relation to design, it was decided to incorporate a more traditional type dwellinghouse incorporating a pitched roof which was more in keeping with the character of the area. The overall height of the proposed dwellinghouse is only slightly higher than the existing house at 1 Hawthorn Lawn and is commensurate with the ridge height of the existing dwellinghouses located in 'The Hawthorn's' residential estate to the west (where the appellants houses are located).

With regard to the overbearing nature of the proposed dwelling, this issue is perhaps the most pertinent issue in terms of its potential impact on adjoining amenity.

Currently a number of single-storey sheds/outbuildings are located adjacent to the western boundary of the site. The proposal would result in a large two-storey structure being located in close proximity to the common boundary. It will to some extent have an overbearing impact on the rear gardens of the adjoining dwellings to the west, particularly No. 1 The Hawthorns. It should be borne in mind however that the proposed dwellinghouse will be located between 12.8 and 14.3 metres from the rear elevations of the main house at Nos. 1 and 2 The Hawthorns. The separation distance between the sunrooms to the rear of the dwellings at Nos. 1 and 2 The Hawthorns is considerably less between 6 and 8 metres. While the proposed dwellinghouse will undoubtedly have an impact, I do not consider that such an impact would be so great so as to warrant a refusal of planning permission in this instance.

- 9.2.2. The Board must balance the need to ensure that any proposed redevelopment of the site is appropriate and in character with the size and scale of the existing two-storey dwellings within the estate. In this regard the provision of a single-storey dwelling in my view would be inappropriate and may not result in the most efficient use of an infill site. Separation distances in excess of 10 metres between the building line of the main dwelling and the proposed dwelling in my view is acceptable.

9.3. **Impact on Residential Amenities**

- 9.3.1. Concern is expressed that the proposed development will give rise to unacceptable levels of overlooking and will materially increase the level of overshadowing in the adjoining rear gardens to the west.

9.3.2. With regard to overlooking the Board will note that there are no windows at first floor level directly overlooking the rear gardens to the west. While there are a number of windows on the western elevation at ground floor level both the boundary wall and the existing shed in the rear of No. 1 The Hawthorns will ensure that no overlooking occurs at ground floor level.

9.3.3. All windows with the exception of the glazed window serving a bathroom (between Bedroom No. 2 and Bedroom No. 3) are orientated northwards or southwards at first floor level. As a result, no direct overlooking on the appellants' gardens will take place. The appellant expresses concern that there is a potential for some oblique overlooking from Bedroom No. 3. There is no doubt that there is a potential for some oblique overlooking to occur. However, this is not unusual in a suburban context and as the applicant points out it is rare that some level of oblique overlooking will always occur into adjoining rear gardens/front gardens in the case of all suburban layouts of reasonable density. The level of overlooking arising from the proposed development is therefore acceptable in my view. The proposed velux window in the roof pitch at second floor level looks directly southwards onto the rear garden which is 22 metres in length. I estimate that the dwellinghouse to the south-west fronting onto Castleknock Road is c.35 metres away and this in my view represents an acceptable separation distance to ensure that no overlooking occurs.

9.3.4. In terms of overshadowing the applicant has submitted a series of shadow casting diagrams depicting the level of overshadowing that would occur at various times of the year. The proposed development will exacerbate the level of overshadowing in the rear garden of the appellants' dwellings. However, this will be confined to the early morning period outside the summer months. I note that the rear elevation of the appellants' dwelling at 9 a.m. with the vernal equinox will receive direct sunlight therefore the overall impact in my view is acceptable particularly having regard to the suburban location of the site.

9.3.5. Arising from my assessment above therefore I consider that the proposed development is generally acceptable in terms of its overall design and scale and will not give rise to any material adverse impacts on residential amenity. For these

reasons I consider that the proposal has successfully overcome the previous reasons for refusal issued by Fingal County Council in respect of FW17A/0117.

9.4. Visual Impact

- 9.4.1. I am generally satisfied that the proposed development would have an acceptable visual impact when viewed from public vantage points around the residential estate. As already stated in my report the proposed development is of a similar scale and height to the existing residential dwellings in the vicinity. While it incorporates a narrower plot width, this can be expected in the case of any residential infill development. I am also cognisant of the fact that the proposed development constitutes a more traditional suburban type dwellinghouse incorporating a pitched roof and also that the proposal seeks to incorporate similar external finishes to the dwellinghouses in the vicinity. The proposal is therefore acceptable in terms of its visual impact.

9.5. Site Notice Issues

- 9.5.1. The Board is not in a position to verify whether or not site notices were removed from the site or where erected and maintained in strict accordance with the provisions of the Regulations. I do not however that the Planning Authority in its response to the grounds of appeal stated that it is satisfied that the site notices were erected and correctly displayed and no evidence exists to suggest otherwise in the grounds of appeal.

9.6. Precedent Decisions

- 9.6.1. Reference is made to a Board decision where planning permission was refused for a similar type infill dwellinghouse on a suburban site near Howth. It would be inappropriate in my view to infer or rely on any decision made by An Bord Pleanála in respect of an infill suburban residential development on a completely different site with different surrounding development in another part of the city. For this reason, I do not consider that relevant precedent exists which would warrant a refusal of planning permission in this instance. The current application before the board should be considered on its merits and in accordance with the proper planning and sustainable development of the area.

9.7. **Restricted Sightlines**

- 9.7.1. I do not accept that the proposed vehicular access to serve the dwellinghouse incorporates restricted sightlines. The proposed sight is afforded greater sightline than the sightlines associated with the appellants' dwellinghouses in the small cul-de-sac adjacent to the west. It would be unreasonable in my view to refuse planning permission on the grounds of restricted sightlines.

10.0 **Conclusions and Recommendation**

Arising from my assessment above I consider the proposed development to be acceptable and in accordance with the zoning provisions set out in the development plan. I also consider that the proposed development would not have a significant or material impact on surrounding residential amenities and would therefore be in accordance with the proper planning and sustainable development of the area.

11.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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.

12.0 **Decision**

Grant planning permission for the proposed development in accordance with the plans and particulars lodged, based on the reasons and considerations set out below.

13.0 **Reasons and Considerations**

Having regard to the land use zoning objective contained in the Fingal County Development Plan which seeks to provide for residential development and protect and improve residential amenity, it is considered that subject to conditions set out below the proposed development would not seriously injure the amenities of the area

or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the applicant shall submit revised plans, elevations and details to the planning authority for written agreement showing the following amendments:
 - (a) A reduction in the length of the rear dormer, by setting back the dormer structure a minimum of 0.75 metres from the rear external wall of the dwelling.
 - (b) The omission of the two rooflights serving Bedroom No. 4 on the western facing roofplain.
 - (c) The location of Bedroom No. 1 and the bathroom and dressing room are to be relocated so that the bathroom and dressing room are located in the western portion of the rear wall of the dwelling and the bedroom and associated window are located in the eastern portion of the rear wall of the dwelling.

Reason: In the interest of visual and residential amenities.

3. Details of the materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Both dwelling units shall be used as separate single dwelling units apart from such use as may be exempted for the purposes of the Planning and Development Regulations.

Reason: In the interest of clarity and to ensure the proper planning and sustainable development of the area.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. [The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.].

Reason: In the interest of sustainable waste management.

7. The applicant shall conform with the requirements of the planning authority in respect of the proposed new vehicular entrance and shall incorporate the following requirements:

- (a) The front boundary wall shall not exceed a height of 0.9 metres. These restrictions extend to planting/landscaping or any similar works within 2 metres of the visibility envelope/boundary that might interfere with the visibility at these locations.
- (b) Access to the proposed dwelling shall be located to the centre of the proposed front boundary.
- (c) The dividing/boundary wall between the driveways shall not exceed a height of 0.9 metres over the last 3 metres adjacent to the public footpath.
- (d) Details of the extent of footpath works including the dishing of the footpath for both dwellings and the relocation of any services shall be agreed with the planning authority's engineer prior to the commencement of development.
- (e) All the above works shall be carried out at the applicants' expense and in accordance with the specifications and conditions of the planning authority.

Reason: In the interest of traffic safety.

- 8. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris adjoining roads during the course of the works on the subject site.

Reason: To protect the amenities of the area.

- 9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the

provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. All bathroom and en-suite rooms shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

Reason: In the interest of residential amenity.

11. Site development and building works shall be carried out between the hours of 0800 hours to 1900 hours Monday to Friday inclusive and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or Public Holidays unless otherwise agreed in writing with the planning authority.

Reason: In order to safeguard the residential amenities of the area.

12. Details of the house numbering scheme shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of clarity.

13. The developer shall pay to the planning authority a financial contribution of €14,653 (fourteen thousand six hundred and fifty-three euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The

application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Paul Caprani,
Senior Planning Inspector.

3rd September, 2018.