



An
Bord
Pleanála

Inspector's Report

ABP-308229-20

Development	Demolition of detached dwelling and ancillary garages/carports and the construction of 5 detached dwellings.
Location	Aisling, 4 Strand Road, Sutton, Dublin 13, D13 V6K4
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0312
Applicant(s)	Basfont Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Basfont Ltd
Observer(s)	Hillwatch Gerry O'Neill and others Patricia O'Brien James P. and Patricia Morrissey Erica Brandt Kevin Moroney

Rosetta and Selina O'Reilly

Alison Kelly and others

Padraig Cahill

Keith Reynolds

Garret McClean

Susie Baird

Michael Lee

Date of Site Inspection

12th November 2020

Inspector

Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located in a prominent coastal setting along Dublin Bay, approximately 1km southeast of Sutton Cross. It has a stated area of 0.3 hectares and is generally flat and rectangular in shape. The site contains a derelict two-storey dwelling with associated outbuildings. It is quite overgrown and temporary security fencing has been erected for the entire length of the roadside boundary, thereby blocking a vehicular entrance at its southern end.
- 1.2. The surrounding area to the north, east and south of the site is characterised by low-density residential development, comprising a mix of detached and semi-detached houses of varying periods and styles. While the pattern of development is generally one of single dwellings substantially setback from the adjoining roads, there is some evidence of backland development on larger sites. Notably, property 3A has been constructed to the rear of 3 Strand Road, directly north of the site. Similarly, No. 6A lies to the rear of No. 6 Strand Road further south of the site.
- 1.3. To the west of the site is Strand Road, which includes footpaths along both sides. There is a wide grass verge on the far side of the road, which is bounded by a sea wall and associated coastal protection works running along the shoreline.

2.0 Proposed Development

- 2.1. In summary, permission is sought for the following:
 - Demolition of the existing dwelling (282.9 sq.m.) and garages (44.9 sq.m.)
 - Construction of 5 detached dwellings
 - Relocation of existing site entrance to serve 2 houses to the front, provision of a new vehicular and pedestrian entrance to serve 3 houses to the rear.
- 2.2. While the appeal expresses a preference for the scheme as submitted at application stage, it also proposes an 'Option B' scheme which reduces the floor area of the second-floor level of all house types. In the interests of clarity and completeness, both options will be taken into account in my assessment.
- 2.3. The proposed dwellings are substantial in size, ranging from c. 215 sq.m. (as per 'Option B') to 450.55 sq.m. The dwellings to the front of the site (types A & B)

contain 3 storeys over a basement level, while the three dwellings to the rear of the site are 3-storey. Maximum ridge heights are approximately 10 metres above the existing public road level.

- 2.4 Following the diversion of an existing foul sewer on site, foul water from the new development will flow via gravity to the diverted public line. Surface water will flow via gravity through a petrol interceptor before being discharged to the sea. Water supply will be via the Irish Water mains.

3.0 Planning Authority Decision

3.1. Decision

By order dated 25th August 2020, Fingal County Council (FCC) issued notification of the decision to refuse permission. The reasons for refusal can be summarised as:

1. The proposed dwellings would not be in keeping with the pattern of development and would be visually obtrusive and incongruous.
2. Having regard to the location of the site within a 'highly sensitive landscape' and the objective to protect views along Strand Road, the development would contravene objectives to preserve the character of the area.
3. The development would have significant negative impacts on residential amenity and would set an undesirable precedent.
4. The private amenity spaces for dwellings C, D and E would be overshadowed and would not contribute positively to residential amenity.
5. a) Surface water information fails to comply with the Sanitary Services Acts 1878 – 1964 (as amended) and would be prejudicial to public health.
b) The proposed basements would be inappropriate in light of the flood risk potential in Flood Zone A.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The FCC planner's assessment can be summarised as follows:

- The development is acceptable in principle as per the zoning objective
- Permission was previously granted for the demolition of the existing dwelling
- It highlights the visual prominence and sensitivity of the site, and concerns regarding the negative visual impact of the proposed development
- While a contemporary design approach is welcomed, there are serious concerns regarding scale, bulk, height, and lack of architectural merit
- The rear gardens of houses C, D and E are of substandard quality due to restricted depth and overshadowing concerns
- The dwelling designs avoid overlooking of adjoining properties
- Overshadowing of other properties is not anticipated but an assessment should have been submitted with the application
- The proposed dwellings, particularly C, D and E, will have significant and negative overbearing impacts on the amenity of adjoining properties
- There will be no likely significant effects on any European Sites
- Refusal is recommended in accordance with the terms of the FCC decision.

3.2.2. Other Technical Reports

Water Services: Requests further information in relation to the proposed outfall; tidal implications for foul and storm sewers; and proposals for sewer diversions. It is stated that the inclusion of basements is highly inappropriate in light of flood risk.

Transportation: Requests further information on sightlines; footpaths; shared surfaces and turning manoeuvres.

3.3. Prescribed Bodies

Irish Water: Requests that the applicant submits a Pre-connection Enquiry (PCE) and highlights standard conditions.

3.4. Third Party Observations

A number of submissions were received. The issues raised are largely covered in the observations to the appeal, but additional concerns were raised regarding inadequate detail on tree removal and construction management.

4.0 Planning History

The following applies to the site:

- ABP Ref. No. PL06F.241411: In 2013, permission was granted for demolition of the existing house, construction of 3 detached houses, revised access.
- PA. Ref. No. F08A/0310: In 2008, permission was refused for demolition of the existing house, construction of 3 detached houses, revised access arrangements. The reasons for refusal can be summarised as follows:
 - 1) Excessive height would be out of character with the area
 - 2) Overbearing and overlooking impacts on neighbouring properties
 - 3) Style, roof profile and bulk of the development is out of character with the area
 - 4) Demolition of the existing house would adversely impact on visual amenity.

5.0 Policy Context

5.1. National Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;

- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)** outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 The guidance document ‘**Quality Housing for Sustainable Communities**’ (DoEHLG, 2007), identifies principles and criteria that are important in the design of housing and highlights specific design features, requirements and standards.

5.1.5 **The Planning System and Flood Risk Management Guidelines (DoEHLG, 2009)** require the planning system to avoid development in areas at risk of flooding unless appropriately justified and mitigated; adopt a sequential approach based on avoidance, reduction and mitigation; and incorporate flood risk assessment into the decision-making process.

5.2. Development Plan

5.2.1 The operative plan for the area is the Fingal Development Plan 2017-2023. The site is zoned ‘RS – Residential Area’, the objective of which is to ‘*Provide for residential development and protect and improve residential amenity*’. Residential use is ‘permitted in principle’ within such zones, as confirmed in section 11.8 of the Plan.

5.2.2 A number of map-based specific objectives apply along the coastline directly west of the site, namely ‘*To Preserve Views*’ and the ‘*Greater Dublin Area (GDA) Cycle Network*’. The site is also within an area designated as ‘*Highly Sensitive Landscape*’ as per the ‘Green Infrastructure 1’ map.

5.2.3 The following summarised objectives are relevant to the proposed development:

- **PM41** Encourage increased densities at appropriate locations whilst ensuring that the quality of place and amenities are not compromised
- **PM44** Encourage the development of underutilised infill and backland sites subject to the character of the area and environment being protected
- **PM45** Promote the use of contemporary and innovative design solutions subject to respecting the character and architectural heritage of the area
- **PM53** Require an equivalent financial contribution in lieu of open space provision in smaller developments where open space is not viable
- **PM65** Ensure private open space has an adequate level of privacy
- **NH36** Ensure that new development does not impinge on highly sensitive areas and does not detract from the scenic value of the area
- **NH40** Protect views and prospects identified in the Development Plan
- **NH59** and **NH60** seek to control development in coastal areas, protect its special character, accommodate development within existing developed areas, and ensure the highest standards of design
- **CH37** Seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage
- **SW07** requires a site-specific Flood Risk Assessment for lands identified in the SFRA, including Sutton.

5.2.4 Section 12.4 sets out Development Management criteria and standards for residential development, the following of which is relevant:

- **DM S28** A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed
- **DMS 29** 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
- **DMS 30** Comply with the recommendations of the BRE guidelines on 'Site Layout Planning for Daylight and Sunlight'.

- **DMS 87** - Ensure a minimum open space provision for 3-bed houses of 60 sq.m., and 75 sq.m. for 4+ bedroom houses
- **DMS 160** Sets out the criteria for assessment of applications on sites that contain historic buildings/structures.

5.3. **Natural Heritage Designations**

The site is not located within a designated Natura 2000 site. The nearest Natura 2000 sites are North Bull Island SPA (Site code 004006) and North Dublin Bay SAC (Site code 000206), both of which generally adjoining the coastline on the opposite side of the road (c. 20 metres away).

5.4. **EIA Screening**

Having regard to the nature and scale of the proposed development, comprising the demolition of a dwelling and the construction of 5 new dwellings in a serviced urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has appealed the decision of FCC to refuse permission. The grounds of appeal can be summarised as follows:

- The area does not have a distinct character and the proposed development will not result in an incongruous insertion. The site can accommodate the proposed height, scale and massing, notwithstanding landscape sensitivities
- Several contended precedent cases are referenced
- The design protects the residential amenity of existing / proposed properties
- Specifications for materials can be agreed with the planning authority

- A revised 'Option B scheme' is submitted for consideration
- Refusal on the grounds of overshadowing is unwarranted
- Floor levels are raised to achieve the required flood freeboard level, not to accommodate the basement. Subject to a slight rise of ground levels, flood risk to the basements will be appropriately mitigated. However, should the Board consider the basements inappropriate, the applicant will accept a condition requiring their omission
- Foul and surface water issues could be satisfactorily resolved.

6.2. Planning Authority Response

The Planning Authority's response to the appeal can be summarised as follows:

- Reiterates concerns regarding the sensitive location of the site and the adverse impact of the development on the character of the area
- Only the complete removal of the top floors would be considered acceptable in terms of massing. Notwithstanding this, design concerns would remain
- A full assessment of surface water treatment and flood risk is needed
- Requests that the Board upholds the decision to refuse permission.

6.3. Observations

6.3.1 A total of 13 observations have been received from the following:

- Hillwatch, c/o Seabarm, Strand Road
- Gerry O'Neill & others, residents of Strand Road
- Patricia O'Brien, 7 Strand Road
- James P. and Patricia Morrissey, 8 Strand Road
- Erica Brandt, 10 Strand Road
- Kevin Moroney, 4 Carrickbrack Heath
- Rosetta & Selina O'Reilly, 2 Carrickbrack Heath
- Alison Kelly & others, residents of Strand Road
- Pdraig Cahill, 2 Sutton Strand
- Keith Reynolds, Terreno, Carrickbrack Road

- Garrett McClean, 3 Sutton Strand
- Susie Baird, 3a Sutton Strand
- Michael Lee, Acadia, Carrickbrack Road

6.3.2 The issues raised in the individual observations are similar, and can be summarised as follows:

- The development would detract from residential amenity by reason of overlooking, overshadowing, and overbearing impacts
- Due to the sensitivities of the area the proposed development would be out of character by reason of inappropriate scale, density, height and design
- The development would result in additional flooding
- The conservation value of the existing house is highlighted
- Procedural issues regarding the documentation submitted are highlighted
- The development does not comply with national and local policy / guidance, and concerns regarding material contravention of the Development Plan
- The need to protect the Howth Special Amenity Area
- The development will result in traffic congestion/hazard and parking problems
- There will be impacts on protected species and habitats
- The appeal, including alterations to the design, does not address concerns
- The development will not significantly contribute to housing supply problems
- There is a lack of applicable precedent for the development

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of the development
- Architectural Heritage

- Height and density
- Visual amenity
- Residential amenity
- Traffic
- Flooding and coastal protection
- Water services
- Appropriate Assessment

7.2 The principle of the development

It is proposed to replace the existing house on this large site with 5 new detached dwellings. The site is zoned 'RS – Residential Area', wherein 'residential' use is 'permitted in principle', and the policies of the Plan reflect the aims of the NPF to support increased densities on infill and backland sites. I also note that there is an established pattern of backland development in the surrounding area. Accordingly, from a zoning and policy perspective, there is no objection in principle to the consideration of the proposal, subject to the detailed assessment as outlined below.

7.3 Architectural Heritage

7.3.1 At the outset it is appropriate to address the question regarding the conservation value of the existing dwelling. In this regard it is noted that various observers to the appeal highlight its unique style and contribution to the character of the area.

7.3.2 I note that the dwelling is not a Protected Structure and is not located within an Architectural Conservation Area. It is listed in the National Inventory of Architectural Heritage (NIAH) with a 'regional' rating, wherein it is described as follows:

'Detached International style six-bay two-storey house, 1936, with flat roof, balcony and projecting end bay. Flanked by single storey garages'.

7.3.3 Despite its previous opposition to demolition (PA Ref. No. F08A/0310), it is noted that the planning authority did not raise any objection in either the subsequent application (PA Ref. No. F12A /0104) or the current application. Furthermore, the Board did not raise any objection under case Ref. No. PL 06F. 241411 (the appeal relating to F12A/0104), wherein the inspector's report stated as follows:

'I note the Senior Planner's reference to the lack of objection from the Conservation officer and accept this being materially different information than that previously before the planning authority. I am of the opinion that it is reasonable to conclude that its retention on grounds of architectural integrity cannot be sustained subject to appropriate redevelopment'.

7.3.4 The current application does not include a specific assessment of the existing dwelling but does include reference to the report included in the previous case, which outlined that:

'Restoring the house to any standard would only be seen as an onerous imposition. With few details of any real architectural worth; there would be no conservation incentive'.

7.3.5 Having inspected the site I can confirm that the structure is in poor repair, with windows boarded / damaged and evidence of external render damage. While the dwelling is certainly distinct and prominent, I consider that it lacks the appropriate level of architectural interest to require protection. Therefore, consistent with the previous position of the Board, I have no objection in principle to its demolition.

7.4 Height and density

7.4.1 It is acknowledged that the area is characterised by low-density residential development generally consisting of two-storey houses. With a stated area of 0.3 hectares, the proposed 5 dwellings would result in an increased density of c. 16 units per hectare. The proposed dwellings are three-storey above ground level, with maximum heights of c. 10 metres above the public road.

7.4.2 Development Plan policy does not contain any specific standards on density and height, except to state that new development should respect the character and amenity of existing development. At national level, the 2018 guidelines on 'Urban Development and Building Heights' state that suburban/edge locations should not be subject to height restrictions and should include a mix of 2, 3 and 4-storey development which integrates well into existing neighbourhoods. SPPR 4 supports this approach, and states that the minimum densities for such locations, as set out in the guidelines 'Sustainable Residential Development in Urban Areas' (2007) must be secured. Again, for 'Inner Suburban / infill' development, the 2007 guidelines do not place a specific figure on density, stating that:

'In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of established character and the need to provide residential infill'.

7.4.3 Having regard to the absence of a specific recommendation on density and height, the suitability of the proposed development will be assessed based on its impact on visual and residential amenity.

7.5 Visual amenity

7.5.1 I acknowledge the sensitivities of the site as reflected in the various designations and policy in the Development Plan. Upon inspection of the site I would consider the site to be prominently visible over a wide area to the north and west along Strand Road / Greenfield Road (and Dublin Road at a distance), within a sensitive coastal setting of high visual amenity value. It is therefore important that new development successfully assimilates within this setting.

7.5.2 At the outset I feel it appropriate to acknowledge the current derelict state of the site, which significantly detracts from the visual amenity of the area. The appropriate redevelopment of the site would be strongly welcomed. I also consider that the proposed dwellings to the rear of the site will be largely screened by the existing and proposed dwellings, and accordingly my assessment in terms of visual impact on the public domain will focus on the two proposed dwellings to the front of the site.

7.5.3 These 3-storey over basement houses are substantial in terms of height and scale, with an overall floor area of c. 450 sq.m. (reduced to c. 425 sq.m. as per 'Option B'). The proposed ridge heights will significantly exceed the adjoining property to the north (by c. 1.7 metres) and to the south (by c. 2 metres). The top floor level is setback from the front façade in an apparent attempt to reduce the visual impact. However, within the context of an overall road setback of c. 35 metres, I do not consider that this measure has a significant impact.

7.5.4 Houses A & B are sited quite close together at a separation distance of 2.5 metres. While this may exceed the minimum Development Plan standards, it is considered that houses of this scale and height would benefit from an increased separation distance. Taken together with the fact that houses share a similar building line and matching floor/ridge levels, and are effectively mirrored in design, the composite impact results in a monolithic appearance. This significant visual impact is further

enforced by the northeast side elevation of 'Dwelling B', which is of significant scale with a depth ranging from 18.5 metres at ground floor level to 16 metres at first floor level and is lacking in terms of architectural articulation.

- 7.5.5 I consider that this visual impact is confirmed by the 'Verified Views and CGI' document submitted with the appeal, particularly in relation to the view from the north of the site. Together with my inspection of the site, I consider that the proposed development is unacceptable by reason of excessive height, bulk, and scale, which would form an obtrusive and incongruent feature at this prominent location and would be seriously injurious to the visual amenities of this sensitive coastal setting.
- 7.5.6 I acknowledge national policy in relation to the promotion of increased building heights and densities. However, it is key that these policies are applied in cases that are appropriate and sympathetic to the site context, particularly in relation to sensitive settings like this one. While increased density may be feasible on the site, I do not consider that the current proposal appropriately responds to its context.
- 7.5.7 This assessment has considered the proposal presented in 'Option B', which reduces the area of the top floors. However, while the alterations reduce the width of as presented in the front elevation drawings, I consider that the true visual impact from the wider surrounding area will be minimal given that the overall depth and height of these floors are retained.
- 7.5.8 Furthermore, while the Planning Authority's reference to the omission of the top floors is noted, I do not consider that this reduction in height would successfully address the concerns regarding scale and bulk outlined above. And while such a reduction would render Dwellings A & B to be more consistent with that previously granted by the Board (ABP Ref. No. PL06F. 241411), I consider that the overall scale and bulk of the current scheme would still be significantly larger than that scheme. The previous scheme contained two visually distinct and separate houses, and the inspector's assessment outlined that the 'breaking down' of the visual impact by way of two detached structures was an important consideration. For the reasons previously outlined regarding its monolithic appearance, I do not consider that the current scheme achieves this and would result in excessive bulk and scale.
- 7.5.9 The commentary by various parties relating to the proposed contemporary style and external finishes is noted. I would have no objection in principle to a contemporary

approach and it is acknowledged that the issue of finishes could be dealt with by condition. However, in light of the substantive concerns outlined above, I do not propose to examine this matter any further.

7.6 Residential amenity

7.6.1 Dealing firstly with the proposed **internal floorspace**, I note that the proposed dwellings are substantial in size and comfortably exceed the target areas as set out in '*Quality Housing for Sustainable Communities*'. There is, therefore, no objection in this regard.

7.6.2 Regarding **private open space**, I note that extensive rear gardens are proposed for dwellings A & B, which is considered acceptable. The rear gardens for the other 3 houses are smaller (65-66 sq.m.) but still exceed the Development Plan minimum standard of 60 sq.m. Notwithstanding this, the Planning Authority raised concerns in relation to the restricted depth and potential overshadowing of these spaces, and deemed the spaces inadequate.

7.6.3 While I acknowledge that the gardens are restricted in depth at ground level, it must also be noted that the first and second floors are significantly setback from the rear boundary by a distance of c. 11 to 14 metres, thereby significantly improving the visual relief and light availability to the rear spaces. The appeal includes a 'shadow study' carried out on behalf of the applicant, which demonstrates that, in accordance with standards set out in the BRE document '*Site layout planning for daylight and sunlight*', at least 50% of the gardens will receive at least 2 hours of sunlight on the 21st March. I am therefore satisfied that the proposed gardens will provide an acceptable level of residential amenity.

7.6.4 I note that no usable **public open space** is proposed within the site. In accordance with Objective PM53 of the Development Plan I would consider it acceptable, in the event of a grant of permission, to deal with a small development like this by means of a financial contribution.

7.6.5 Turning to the potential impacts on **adjoining properties**, and firstly the question of **overlooking**, I consider that the proposed dwellings have been designed with the intention to avoid habitable rooms directly overlooking the adjoining properties, through a combination of internal layout, orientation and separation distance.

- 7.6.6 I note the submissions on behalf of the owners/occupants of the adjoining properties which raise concerns regarding overlooking. In response I note that there are no significant first/second floor windows overlooking the eastern boundary. Along the northern boundary, the side elevations of dwellings B and C are again devoid of any overlooking concerns. The front elevation upper floors of dwelling C warrant further consideration in relation to the rear gardens of No.'s 3 and 3A Strand Road. However, I consider that any overlooking of 3A will be at an acute angle and will only affect a small corner of the property. I consider that the rear garden of No. 3 is sufficiently distanced by c. 10 metres from dwelling C and that this would adequately protect from significant overlooking. Similarly, along the southern boundary, it is considered that any overlooking from the front of dwelling E is adequately mitigated by the existence of mature vegetation screening and a separation from No. 5 Strand Road of approximately 30 metres. Accordingly, I do not consider that the proposed development will result any significant overlooking to warrant refusal on that basis.
- 7.6.7 I also note the concerns raised in the appeal regarding the potential **overshadowing** of adjoining properties and I acknowledge the absence of a comprehensive analysis as part of the application. As previously outlined, a limited 'shadow study' has been submitted as part of the appeal.
- 7.6.8 In this regard I note that there are no existing properties to be significantly affected to the west of the proposed dwellings. Similarly, due to the direction of the sun path, I consider that the properties to the south of the site, which benefit from large open sites, will be largely unaffected in terms of any loss of sunlight or daylight.
- 7.6.9 The properties to the east of the site would only be affected by the late afternoon and evening sun. Despite the proximity of dwellings C – E to the eastern boundary, it should be noted that the first and second floors are in excess of 11 metres from the boundary, which would be consistent with established standards. Again, it is noted that the properties to the east benefit from generous areas of open space.
- 7.6.10 In relation to the properties to the north, the submitted 'shadow study' indicates that, on the 21st March, the existing houses would be unaffected by overshadowing. While the curtilage of these properties, particularly 3A, would be overshadowed for certain periods of the day, it would appear that at least 50% of the gardens will receive at least 2 hours of sunlight on this date, thereby complying with the BRE standard.

7.6.11 While I agree with the view of the Planning Authority that a comprehensive study of overshadowing would have been welcome, I consider that the proposed development would not be seriously injurious to residential amenity by reason of overshadowing.

7.6.12 Finally, in relation to adjoining properties, the question of **overbearing** impacts must be considered. In this regard I consider that the upper floors of units C – E are sufficiently separated from adjoining properties to the east to prevent seriously injurious impacts. While it is acknowledged that unit E directly adjoins the boundary with the property to the south, I consider that the existence of mature vegetation and a separation distance of c. 30 metres from the house itself to the south (No. 5 Strand Road) is adequate to prevent significant overbearing impacts. The southwest side elevation of unit A would be reduced to a height of 6.3 metres under ‘Option B’, and while the depth of the first floor level is still significant at c. 14.5 metres, I note that it would not be significantly larger than the southwest elevation of the existing dwelling, and that it generally coincides with the footprint depth of No. 5 to the south. I consider that any additional impacts could be reasonably accepted.

7.6.13 I consider that overbearing impacts are most pronounced in relation to the properties to the north of the site (i.e. No. 3 and 3A Strand Road). These properties are most exposed to the cumulative scale, height and bulk of the development, which would result in a significant change to existing levels of residential amenity. I consider that the proposal for 3 dwellings to the rear of the site necessitates minimal separation distances between the houses of less than 1 metre, while the Development Plan standard is 2.3 metres. This effectively results in the appearance of a terrace, which would be out of character with the established character of development.

7.6.14 Furthermore, unit C is less than 1 metre from the private amenity area of 3A Strand Road, and just approximately 13 metres from the house itself. While the originally proposed 3 storey north-east elevation of unit C would be reduced in height and scale under ‘Option B’, I consider that it would still have negative impacts by reason of its proximity to the adjoining private garden. This impact is exacerbated by the blank nature of the elevation, which would result in an imposing presence and provide a substandard and unacceptable transition between existing and proposed development.

7.7 Traffic

7.7.1 Having regard to the scale of the development involving just 4 additional dwellings, I do not consider that it would result in significant intensification of traffic levels for the area. The proposal accommodates 2 car-parking spaces per dwelling, and this is considered acceptable as per Development Plan standards.

7.7.2 The existing entrance at the extreme southern end of the roadside boundary has limited width and sightline availability, particularly to the south, and its removal would effectively eliminate a traffic hazard. Two new shared entrances are proposed to serve the 5 dwellings. While the development will result in a limited intensification of traffic movements, it is considered that the improvements to entrance width and roadside setbacks offers an opportunity to generally improve traffic conditions.

7.7.3 It is acknowledged that limited detail is provided in the application regarding the specifics of sightline availability from both entrances. However, having regard to the existing traffic conditions relating to the site and the adjoining public road, I consider that any outstanding concerns could be satisfactorily addressed, and I have no fundamental objection in this regard.

7.7.4 Similarly, I consider that the application fails to provide an appropriate relationship between pedestrian and vehicular traffic and would benefit from the provision of a shared surface with no separation of pedestrian access. However, it is considered that this issue could be satisfactorily addressed.

7.8 Flooding and coastal protection

7.8.1 The application includes a 'Flood Risk Assessment' prepared by Lohan & Donnelly Consulting Engineers, which assesses flood risk as follows:

- OPW historical records of a tidal event in 2002 to a level of 2.95m O.D.
- OPW modelling (floodinfo.ie) indicates a 0.5% (1 in 200 year) probability of coastal flooding, whereby water levels rise to 3.11m OD
- OPW modelling does not indicate a fluvial flood risk
- The Development Plan SFRA does not indicate pluvial/groundwater risk
- Initial borehole tests do not show the presence of groundwater
- The site is deemed to have a high probability of flooding (i.e. Flood Zone A)

7.8.2 The following measures are incorporated to address flood risk:

- It is proposed to raise the site level to provide FFL's of 4.0m OD, i.e. above the 0.5% water level (3.11m OD), plus the freeboard (0.75m) recommended in the Development Plan SFRA
- Basements will be designed to be watertight
- Surface water will discharge to the sea and therefore impacts will be minimal
- Emergency Plan measures will be followed

7.8.3 The report contends that the 'Justification Test' is passed as follows:

- The site is 'brownfield' and is zoned for residential development
- An appropriate flood risk assessment has been completed.

7.8.4 I note that the observations made on the appeal raise significant concerns in relation to flooding experienced at this location and that the proposed development may exacerbate this situation through the displacement of water from the site to adjoining lands. The inclusion of basements was also deemed inappropriate by the planning authority on grounds of flood risk.

7.8.5 Having regard to the above and the documentation submitted with the appeal, I consider it is not disputed that the site has been subject to historical flooding; that it is subject to a high probability of future flooding; and that the proposed residential development constitutes a highly vulnerable use. Accordingly, the 'Justification Test' must be passed in accordance with section 5.15 of the 'flood risk guidelines'.

7.8.6 In this regard I acknowledge that the site is zoned for residential use in accordance with the Development Plan (which included a SFRA), and therefore complies with point 1 of the test.

7.8.7 Point 2 (i) of the test requires demonstration that the development will not increase flood risk elsewhere and, if applicable, will reduce overall flood risk. In this regard I note that the existing dwelling is at flood risk due to its ground floor level (3.14m AOD), and its removal will therefore eliminate a risk. However, the applicant's FRA is effectively silent on the question of increasing flood risk elsewhere, which is a central concern of some neighbouring residents regarding the raised site level.

7.8.8 While these concerns are acknowledged, I would feel that the observations do not fully appreciate the nature of coastal flooding in the sense that any displacement of water would take place over the entire coastal water body. Having regard to the minor scale of the site in the context of the adjoining coastal waters, I consider that any displacement of flood water will be imperceptible and, therefore, I have no objection in this regard.

7.8.9 Points 2 (ii) and (iii) require the inclusion of measures to minimise flood risk and residual risk. I acknowledge that the proposal includes appropriate measures to minimise flood risk on the site including raised floor levels and protected basements (as recommended in the Development Plan SFRA policies), as well as the incorporation of emergency plan procedures. Regarding surface water, permeable surfaces will be applied to the driveways of the houses and surface water from the roof and access road will discharge to the sea. While the surface water discharge would appear to be yet subject to a 'foreshore license' application, I consider that proposals are acceptable in principle from a surface water capacity perspective.

7.8.10 Point 2 (iv) relates to the achievement of wider planning objectives relating to urban design. While it is acknowledged that the flood risk mitigation measures involve a raised ground FFL, it is not considered that this is a major contributing factor to the concerns I have previously raised regarding the design of the proposal.

7.8.11 Having regard to the above, I consider that the proposed development would satisfactorily pass the 'justification test' and there is, therefore, no objection in terms of flood risk.

7.8.12 The policies of the Development Plan relating to coastal protection are acknowledged. However, I consider that the site is significantly distanced and separated from the coastline. While some surface water outfall works are proposed within the existing coastal protection structure, I would be of the opinion that such minor works do not raise concern of any significance.

7.9 **Water services**

7.9.1 It is proposed to connect to the Irish Water watermains supply. While the 'pre-connection enquiry' process does not seem to have been followed, there would not appear to be any fundamental objection to this proposal. Similarly, I consider that the

issues raised by the FCC Drainage Division regarding the foul sewer diversion and design could be adequately addressed.

7.9.2 As previously highlighted, surface water is to be discharged via a petrol interceptor to the sea. This proposal would be subject to the granting of a 'Foreshore License' by the Department of Housing, Local Government and Heritage and it would appear that no such application has been made. Notwithstanding this, there would be no objection in principle from a planning perspective.

7.10 Other Issues

7.10.1 I note that some of the observers have raised concerns in relation to the lack of information in the drawings and details submitted with the application. However, I note that the Planning Authority deemed the application to be valid in accordance with the Planning and Development Regulations 2001 (as amended) and I consider that it contains sufficient information for assessment.

7.10.2 One of the observations raises concern about the inclusion of 'Option B' as part of the appeal. Given that these optional revisions reduce the overall scale of the proposal, I do not consider that there is potential for 3rd parties to be significantly affected by its inclusion. The option has, therefore, been considered in the interests of completeness. In any case, I do not consider that the revisions satisfactorily address concerns regarding the proposed design.

7.10.3 The appellant contends that there are precedent cases from the Board to support the proposed development in terms of scale, height and design. Having reviewed the quoted cases, I do not consider them comparable for the following reasons:

- PL06F.304323: This site on Greenfield Road is distanced from the coast and is separated from the coast by other development. It is not therefore comparably sensitive nor prominent.
- PL06F.306872: This Strategic Housing Development is located on a much larger site that formed part of the Santa Sabina Dominican College grounds, with development setback of more than 100 metres from the road.
- PL06F.248195: This is a predominantly two-storey development located between a large open space and an existing contemporary style dwelling. The context is not comparable to the present case.

8.0 Appropriate Assessment – Screening

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

8.1 Background to the application

8.1.1 As part of the application, a ‘Screening Report for Appropriate Assessment’ was compiled by OPENFIELD Ecological Services in June 2020. In summary, the report includes the following:

- Brief description of the project
- Identification and description of relevant Natura 2000 sites
- The conservation objectives relating to the sites
- An outline of data collected to carry out the assessment

8.1.2 The report’s assessment of the significance of effects is as follows:

- Due to separation distances and the absence of pathways, there will be no habitat loss or disturbance
- Additional loading on the Ringsend wastewater treatment plan cannot be significant as there is no evidence of pollution through nutrient input affecting the conservation objectives of the relevant SPA
- There will be no significant surface water impacts and no mitigation measures are proposed to reduce or avoid effects on Natura 2000 sites
- The proposed flood mitigation does not relate to the Natura 2000 sites
- As the site is separated from North Bull Island SPA by a busy road, no disturbance effects to birds using the SPA can occur
- No ‘ex situ’ impacts can arise to bird populations
- No significant cumulative effects are identified from other projects and plans.

8.1.3 The applicant’s AA Screening Report concluded that *‘the possibility of any significant impacts on any European Sites, whether arising from the project itself or in*

combination with other plans and projects, can be excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available'. In coming to this conclusion it is stated that mitigation measures have not been taken into account, and that 'Standard best practice construction measures which could have the effect of mitigating any effects on any European Sites have similarly not been taken into account.'

8.1.4 Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.1.5 The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.2 **Brief description of the development**

8.2.1 The applicant provides a description of the project in pages 5 to 6 of the AA Screening Report. In summary, the development comprises:

- Demolition of the existing dwelling and garages, site clearance and removal of construction and demolition waste under license
- Construction of 5 new dwellings using standard building materials
- Raising of the site by c. 1 metre to avoid flooding impacts
- Connections to public watermains (supplied from River Liffey reservoirs) and foul sewer (to Ringsend WWTP)
- Disposal of surface water to Dublin Bay via an oil/petrol interceptor
- The operational phase of the development.

8.2.2 The site is described on page 6 of the applicant's AA Screening Report as '*entirely composed of buildings and artificial surfaces and is entirely surrounded by roads or other residential lands*'. In this regard I note that the site is predominantly comprised of overgrown grass that would have previously formed a private garden.

8.2.3 Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:

- Construction related pollution
- Habitat loss / fragmentation
- Habitat / species disturbance (construction and/or operational)

8.3 Submissions and observations

8.3.1 There have been no comments from prescribed bodies. One observation from a member of the public (Patricia O'Brien) raises concern about the impact of the development on Brent Geese habitat as a result of off-site parking, while another (on behalf of Garret McClean) raises procedural issues regarding the public notices and AA requirements.

8.3.2 I consider that the development proposes sufficient on-site parking and the issue of unauthorised parking should not be considered as part of this assessment. The potential for disturbance of species, including Brent Geese, is covered later in this assessment. I also confirm that there was no requirement to advertise the inclusion of an AA Screening Report as part of the statutory public notices.

8.4 European Sites

8.4.1 The closest European Sites are North Dublin Bay SAC and North Bull Island SPA, which are both approximately 20 metres to the west of the site. A summary of European Sites that occur within the possible zone of influence of the development is presented in the table below.

Table 1 – Summary of European Sites within a possible zone of influence of the development

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (km)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
North Dublin Bay SAC (000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310]	0.02 (c.20 metres)	Directly connected via surface water outfall	Yes

	<p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>			
<p>North Bull Island SPA (004006)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	<p>0.02</p> <p>(c.20 metres)</p>	<p>Directly connected via surface water outfall</p>	<p>Yes</p>
<p>Howth Head SAC (000202)</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>	<p>1.0</p>	<p>Indirectly connected to surface water outfall via Dublin Bay water body</p>	<p>Yes</p>

Rockabill to Dalkey Island SAC (003000)	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]	2.0	Indirectly connected to surface water outfall via Dublin Bay water body	Yes
South Dublin Bay and River Tolka Estuary SPA (004024)	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]	5.5	Indirectly connected to surface water outfall via Dublin Bay water body. Also via wastewater connection to Ringsend WWTP	Yes
South Dublin Bay SAC (000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	6.0	Indirectly connected to surface water outfall via Dublin Bay water body. Also via wastewater connection to Ringsend WWTP	Yes

8.4.2 Having regard to the scale of the proposed development; the separation distances involved; and the absence of identified pathways; I do not consider that any other European Sites fall within the possible zone of influence.

8.5 Identification of likely effects

- 8.5.1 In relation to **construction related pollution**, I note that the site is not within or directly adjacent to any European Sites. Apart from North Dublin Bay SAC and North Bull Island SPA (c. 20 metres away), all other relevant European Sites are located more than 1 Kilometre from the development site. While there are indirect hydrological links to these distant sites, I consider that significant construction-related effects are unlikely having regard to the limited scale of the development; the separation distances involved; and the presence of substantial marine water buffers.
- 8.5.2 While the site itself is distanced from North Dublin Bay SAC and North Bull Island SPA, it is proposed to construct a direct connection through the proposed surface water outfall. Surface water from the site will discharge via a new surface water pipe to be constructed under the adjoining Strand Road and through the existing block wall and coastal protection concrete plinth. At this point the outfall will discharge to Dublin Bay at the High Water Mark, which generally coincides with the boundary of these two European Sites.
- 8.5.3 The proposed development therefore involves construction works immediately adjoining the SAC/SPA boundary. Such works can raise the potential for construction related pollution through the disposal of substances that may affect habitats and/or species. Construction works can also cause disturbance to species as a result of noise and activity. However, having regard to the limited scale and short-term duration of the proposed works, I do not consider it likely that there will be significant effects in this case.
- 8.5.4 In terms of **habitat loss / fragmentation**, it is again noted that no part of the development site is located within any European Sites and that there will be no direct loss of habitat. Howth Head SAC, Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC are all located in excess of 1km from the site and, accordingly, having regard to the scale of the development, it is not considered that there is potential for habitat loss or fragmentation by reason of disturbance or otherwise.
- 8.5.5 While the surface water will outfall to the North Dublin Bay SAC and North Bull Island SPA, it is not considered that these minor works have the potential for significant effects in terms of habitat loss or fragmentation.

- 8.5.6 With regard to **habitat / species disturbance** at operational stage, it is acknowledged that there will be surface water and wastewater emissions to Dublin Bay. Wastewater from the proposed development will be treated at the Ringsend plant which is licensed to discharge treated effluent to Dublin Bay. In 2019 it catered for an average P.E. of 1.98 million, which exceeds the design P.E. of 1.64 million. The Annual Environmental Report for 2018 indicated that there were some exceedances of the emission limit values set under the Urban Wastewater Treatment Directive due to wet weather events. Irish Water is working to provide infrastructure to achieve compliance with the Directive for a P.E. of 2.1 million by mid-2023.
- 8.5.7 The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are in close proximity to the Ringsend plant. However, I note that the applicant's AA Screening Report refers to the lack of evidence that pollution through nutrient input is affecting conservation objectives. Furthermore, I would consider that the minor scale of the proposed development would have an insignificant impact in the context of the overall capacity of the Ringsend plant.
- 8.5.8 With regard to surface water emissions, it must again be acknowledged that the development is of a minor scale and the surface water outfall accommodates the roof areas and access road only. In the context of the overall area of Dublin Bay, its tidal cycles and dilution effects, I do not consider that the surface water outfall would result in significant effects on the European sites within the bay area.
- 8.5.9 In terms of cumulative effects, the development must be considered in the context of various other projects around the bay area. As previously outlined, the proposed development would not be considered to have a significant cumulative impact in respect of the existing wastewater loading. The surface water outfall is independent and would be considered insignificant in the context of other surface water discharges. Similarly, it is not considered that any disturbance as a result of the construction works would be significant due to its minor scale and short-term duration. The implementation of the Water Framework Directive, the policies of the Greater Dublin Drainage Study and the upgrade of the Ringsend treatment plant will see improvements to the water quality in Dublin Bay.
- 8.5.10 Table 2 (overleaf) summarises the outcomes of the screening process.

Table 2 – AA Screening summary matrix

European Site (Code)	Distance from proposed development / Source, pathway, receptor	Possible effect alone	In combination effects	Screening Conclusions
North Dublin Bay SAC (000206)	C. 20 metres from the site, with a proposed direct connection via a surface water outfall pipe.	Disturbance from construction works and emissions from the outfall are not considered significant due to the minor scale and duration of the proposed works.	No likely significant effect with other construction works and surface water emissions	Screened out for the need for AA
North Bull Island SPA (004006)	C. 20 metres from the site, with a proposed direct connection via a surface water outfall pipe.	Disturbance from construction works and emissions from the outfall are not considered significant due to the minor scale and duration of the proposed works.	No likely significant effect with other construction works and surface water emissions	Screened out for the need for AA
Howth Head SAC (000202)	1 km from the site, with a possible hydrological connection to the surface water outfall	No likely significant effects due to the substantial separation distance and marine buffer	No likely significant effect with other works and emissions	Screened out for the need for AA
Rockabill to Dalkey Island SAC (003000)	2 km from the site, with a possible hydrological connection to the surface water outfall	No likely significant effects due to the substantial separation distance and marine buffer	No likely significant effect with other works and emissions	Screened out for the need for AA
South Dublin Bay and River Tolka Estuary SPA (004024)	5.5 km from the site, with an indirect connection via the wastewater treatment system and a possible hydrological connection to surface water outfall via Dublin Bay	No likely significant effects due to the minor scale of the development and the assimilative capacity of the Dublin Bay water body	No likely significant effect with other wastewater and surface water emissions	Screened out for the need for AA
South Dublin Bay SAC (000210)	6 km from the site, with an indirect connection via the wastewater treatment system and a possible hydrological connection to surface water outfall via Dublin Bay	No likely significant effects due to the minor scale of the development and the assimilative capacity of the Dublin Bay water body	No likely significant effect with other wastewater and surface water emissions	Screened out for the need for AA

8.6 Mitigation measures

I accept the contention of the applicant's AA Screening Report that the petrol interceptor is a standard surface water management measure. Accordingly, no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.7 Screening Determination

8.7.1 The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

8.7.2 This determination is based on the following:

- The limited scale and duration of the proposed works;
- The distance of the proposed development from European Sites; and
- The hydrological assimilative capacity of Dublin bay.

9.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the prominent location of the site in a sensitive coastal setting, and to the established built form and character of existing development at this location, it is considered that the proposed development, including two large dwellings in close proximity at the front of the site, would form an obtrusive and incongruous feature by reason of excessive height, scale and bulk. The proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning

authority, as set out in the current Development Plan, in relation to the protection of the character of existing neighbourhoods and coastal areas, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the limited width of the site and its relationship to adjoining property, it is considered that the proposed development, including three dwellings to the rear of the site, represents inappropriate backland development, which would seriously injure the amenities of property in the vicinity by reason of excessive scale, proximity and overbearing impacts. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area

Stephen Ward
Senior Planning Inspector

30th November 2020