



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309354-21

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<b>Development</b>	Construction of 2 storey detached dwelling with mezzanine level and roof balcony, vehicular entrance (off South Strand) and all associated site works.
<b>Location</b>	Site fronting onto South Strand, bound on the south by Callaghans Lane, Skerries, County Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20A/0125
<b>Applicant(s)</b>	Mary Leahy.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Colm O'Byrne.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	17 <sup>th</sup> May 2021.

**Inspector**

Elaine Sullivan

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.02ha and is located in Skerries Village, on the corner of Callaghan's Lane and South Strand. It is rectangular in shape with a width of 8.4m and a length of 24m. It is currently open in nature with some scrub planting in place across the site. The site boundary comprises a low level wall on 3 sides with a timber fence forming the rear boundary to the west.
- 1.2. To the east, the site bounds the public footpath on Strand Road and there is a pay and display parking meter and parking space directly to the front of the site. To the south of the site is Callaghan's Lane, which is a narrow laneway that connects South Strand Road with Strand Street. There are no traffic restrictions in place on the laneway but there are double yellow lines on both sides. Further south and on the other side of the laneway is a terrace of two storey, red brick, Victorian houses.
- 1.3. Directly to the north of the site are two single storey cottages positioned back to back, No's 28 & 29. No 29 faces onto South Strand and is set back approximately 15m from the public footpath as measured from the site plan. Beyond that again and to the north are two more open sites that would have been originally attached to the properties facing onto Strand Street. Further north along South Strand the area is characterised by two storey dwellings with a mix of architectural styles with the more recent additional of contemporary style with balconies to the front.
- 1.4. To the rear of the site and to the west is an ESB substation and a telecommunication structure. Adjoining this site is a single storey building in commercial use facing onto Strand Street. Planning permission has been granted on this site under ABP-302099-18, (PA Ref. F17A/0401) for the construction of a 2 storey building with retail at ground floor and 2 x 1 bedroom apartments at first floor level with balconies.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a new 2 storey detached dwelling of 160sqm with mezzanine level and balcony to the front. A new vehicular entrance is proposed to South Strand and off-street parking for one car would be provided to the front.

- 2.2. The dwelling would have a rear garden of 50sqm which would have a wall of 1.8m and a pedestrian entrance from Callaghan's Lane. The building would be constructed on the boundary to Callaghan's Lane. An opaque glass screen to a height of 1.8m would be installed along the north-western boundary of the site.
- 2.3. A balcony to the front of the house is shown on the upper level and accessed from the mezzanine.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Planning permission was granted by the PA subject to 16 conditions, which were standard in nature.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The decision of the PA was informed by three reports from the Planning Officer. The first report dated the 30<sup>th</sup> June 2020 contains the following;

- The proposed development generally accords with the standards and objectives of the Development Plan. Given the constrained nature of the site the reduced quantum of private open space is acceptable.
- No undue overlooking of adjoining properties to the south, west and north is anticipated. However, there are concerns regarding overshadowing of the property to the north.
- The proposed vehicular entrance would require the removal of one, on-street, pay and display parking space which would result in a reduction of income for the PA. A financial contribution to off-set this loss is recommended should planning permission be granted.
- Further information is requested to address concerns regarding flood risk, drainage, construction methodology, overshadowing of adjoining properties and details of the boundary treatment.

The report of the Planning Officer dated the 1<sup>st</sup> October 2020 requested clarification of information with regard to the surface water drainage on the site and the proposed foundation method which requires engagement with Irish Water. The PA were satisfied that other issues had been addressed.

The report of the Planning Officer dated the 15<sup>th</sup> January 2021 noted that all issues had been adequately addressed and recommended that planning permission be granted.

### 3.2.2. Other Technical Reports

- Water Services Department – The report dated the 27<sup>th</sup> April 2020 requested that further information be requested with regard to the raising the internal floor level to comply with the GSDS and revising the design of the soakaway proposed. These issues were addressed in subsequent submissions by the applicant and planning conditions were recommended.
- Transportation Planning Section – Table 12.8 of the CDP requires 2 parking spaces for a 3+ bed dwelling and the proposal provides just one space. The vehicular access proposed on South Strand would necessitate the removal of one pay and display parking space. Objective DMS115 of the CDP allows for a payment of a special contribution which can be sought in lieu of a shortfall in the provision of parking and the reduction in revenue from the loss of pay and display parking. This should be applied to any grant of planning permission.

### 3.3. Prescribed Bodies

- Irish Water – Further information was requested with regard to clearance distances between services on Callaghan's Lane. This was addressed by the applicant to the satisfaction of Irish Water.

### 3.4. Third Party Observations

Four observations were received by the PA during the public consultation phase and one response was received to the further information submitted. The main issues raised in the observations are summarised as follows;

- The size and design of the proposal is inappropriate.
- It would overshadow and overlook adjoining properties.
- Callaghan's Lane has been subject to flooding in the past and is currently used as a rat run.
- The proposed vehicular entrance to South Strand could be a hazard to pedestrians.
- The balcony to the front would cause noise and nuisance.
- Cllr. Tom O'Leary submitted an observation in support of the development proposal.
- In response to the further information submitted, a second observation was received from Mr. Colm O'Byrne, which states that the shadow study submitted demonstrates that the adjoining site will be overshadowed, the access arrangements will be intrusive and the building will cause a blind spot from Callaghan's Lane.

#### 4.0 Planning History

**F19A/0241** – Planning permission refused by the PA on the 30<sup>th</sup> July 2019 for a 3 storey detached dwelling with partial basement new vehicular entrance off South Strand and associated site works. The reasons for refusal are as follows;

1. The proposed development, by reason of its height, scale, bulk and design and its location on a site of restricted size and configuration would have a negative impact on adjoining residential properties through overlooking, overbearance and overshadowing, particularly in relation to the adjoining single storey residential dwelling to the north. The proposed development would therefore seriously injure the residential amenities of adjoining properties and depreciate the value of properties in the vicinity.
2. The proposed development of a 3 storey house would be out of character with the existing pattern of development in the immediate area, which is predominantly characterised by single storey and two storey houses. The proposed development would, therefore, seriously injure the visual amenities

of the area and would be contrary to the proper planning and sustainable development of the area.

3. The subject site is located within an area that is at risk of flooding. The applicant has not submitted sufficient details to demonstrate that the proposed development would not be at risk of flooding or give rise to increased risk of flooding elsewhere. It is therefore considered that in the absence of satisfactory details in relation to this matter that the proposed development, if permitted, would be liable to flooding.
4. The applicant has not submitted sufficient details in relation to surface water drainage in respect of the proposed development. It is considered that in the absence of such details the proposed development, if permitted, would be prejudicial to public health.

On the neighbouring site to the rear:

**ABP-302099-18, (PA Ref. F17A/0401)** – Planning permission granted by Bord Pleanála on the 24<sup>th</sup> January 2019 for demolition of existing single storey retail structure and the construction of a 2 storey mixed use retail and residential structure comprising 1 retail unit at ground floor level and 2 x 1 bedroom apartment units at first floor level with balconies and associated site works.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2017-2023

- 5.2. The subject site is zoned objective 'TC' – Town and District Centre, which has the objective to 'Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'.
- 5.3. **Objective DMS24** - Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3, which relate to gross floor area, aggregate living and bedroom areas, storage and room size.
- 5.4. **Objective DMS28** - A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless

alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

- 5.5. **Objective PM41** - seeks to encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.
- 5.6. **Objective PM44** - Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.
- 5.7. **Objective DMS39** - 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.
- 5.8. **Objective DMS40** – Contains design guidance on new corner site development.

### **National Guidance**

#### **National Planning Framework 2040**

National planning policy seeks to consolidate development and promote efficient use of land by utilising infill and brownfield sites.

The National Planning Framework, (NPF), contains policies that relate to the promotion of compact growth and making better use of under-utilised land, including 'infill' and 'brownfield' sites. Objective 3b seeks to 'Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

- 5.9. **Natural Heritage Designations**
- 5.10. No designations apply to the site.



## 5.11. EIA Screening

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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 grounds of appeal are summarised as follows;

- The proposed development will have a significant impact on the properties to the north of the site at 28 & 29 South Strand Road in terms of loss of privacy and overshadowing.
- The screen along the northern boundary of the site is unsightly and intrusive and the development would be visually overbearing and incongruous within the streetscape.

### 6.2. Applicant Response

A response from the applicant was received on the 5<sup>th</sup> March 2021 and includes the following;

- The space to the front of No. 29 is open to views from the public domain. There are no windows on the northern elevation facing on to No. 29 and a 1.8m high opaque screen is proposed along the boundary to prevent overlooking while entering or exiting the dwelling.
- The proposed dwelling has been positioned forward of the side facing windows on the appellants property to avoid undue overshadowing. The

shadow study shows that there will be some shadowing on March 21<sup>st</sup> and September 23<sup>rd</sup> but there will be no significant impact on June 21<sup>st</sup>.

- Development of any significant scale on the vacant site will have some impact on the adjoining property. However national policy seeks to utilise underused, infill sites in urban areas to consolidate development.
- The appellant argues that the house is not in keeping with the traditional red brick houses to the south of the site. However, if this style was to be replicated the roof ridge would be higher than the subject proposal and would have the same impact in terms of shadowing.
- There is currently a mix of architectural styles and buildings on Strand Road, including a number of contemporary buildings. Therefore, the proposal will not be out of character for the area.

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

A response from the PA was received on the 8<sup>th</sup> March 2021 and includes the following;

- The issues raised in the third party appeal have been addressed in the Planner's reports relating to the proposal.
- The PA considers that this proposal strikes an appropriate balance between the protection of amenities and privacy of adjoining properties, protection of character of the area and the need to provide residential infill development.

### **6.4. Observations**

- No observations.

## **7.0 Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of Development
- Scale & Design

- Future Residential Amenity
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

## 7.2. Principle of Development

Residential development is listed as permitted in principle under the Town Centre zoning objective for the site. Both the CDP and National policy promote the development of infill sites within urban towns and villages for residential use. As such, the principle of the proposed development for a detached house on a vacant site within an urban settlement is acceptable subject to the relevant standards.

## 7.3. Scale and Design

The proposed development is of a contemporary design with a pop-up mezzanine feature with a zinc clad flat roof and large scale glazing to the front. There is a range of different dwelling types along South Strand and in particular to the north of the site, where there is a mix of traditional and contemporary houses. Given the context of the infill site, it is my view that a contemporary design approach is acceptable and would add to the mix of architectural styles along the streetscape.

Although the site is bounded by two single storey cottages to the north, the dominant pattern of development around the site is that of 2 storey residential houses. In my view, the scale of the proposed development is commensurate with the 2 storey residential development to the south and north. In terms of urban form, the established building line to the south would be retained on the lower levels, and, by the edge of the balcony on the upper level. The mezzanine level would be set back from the main elevation and the height of the proposed dwelling would be lower than the ridge height of the terrace to the south. The flat section of the roof would appear to make the massing of the building greater than the traditional houses to the south. However, given the constrained width of the site, I do not consider the bulk of the building to be excessive. Design details such as staggering the front elevation,

setting back the mezzanine level and the use of large scale glazing, all serve to reduce the overall mass of the building.

The scale of the adjoining cottages to the north is noted and whilst the scale of the proposed dwelling is not large in the context of the two storey houses, its impact on the smaller scale dwellings will vary. The impact of the proposal on these dwellings is addressed in detail below.

In my opinion the scale and design of the proposal is appropriate for the site and is commensurate with the established pattern of development to the north and south. As such it is in accordance with Objectives DMS39 and DMS40 of the CDP which sets out guidance on infill and corner site development.

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

I note that the proposed development is broadly in accordance with the development standards relating to new residential development as set out in Chapter 12 of the CDP. Objective DMS87 of the CDP requires that houses with 3 bedrooms have a minimum of 60 sqm of private open space located behind the building line. The proposed development would provide 60 sqm of open space to serve the dwelling but 10 sqm of this would comprise the balcony to the front. In consideration of the infill nature of the site, it is my view that the provision of open space would provide a sufficient level of amenity for future residents.

#### **7.5. Impact on Existing Residential Amenity**

In my view the most sensitive receptors to the proposed development are the single storey cottages, (No's 28 & 29 South Strand), to the north of the site. No. 28 is positioned to the rear of the subject site and, given its position and design, would not be directly impacted by the proposal. No. 29 directly adjoins the site and as such would be more susceptible to impacts.

No. 29 is an unusual property within the streetscape. It is set back from the front boundary by c. 15m and as such it does not align with the established building line to the north or south. The space to the front of the cottage allows for off-street parking

for the residents and is the only area of open space to serve the dwelling. It has four windows facing onto the subject site and approximately 0.8m from the site boundary.

The proposed development would be positioned forward of the cottage and the rear elevation would align with the front porch. As such the proposal would not result in any direct overlooking of the windows facing onto the site. It is also proposed to attach a glazed screen to a height of 1.8m along this boundary to prevent any loss of privacy or overlooking from the space to the rear of the house.

I note that this cottage appears to the single aspect so would be particularly sensitive to any loss of light. The appellant is of the opinion that the opaque glazing is visually intrusive and unsightly. However, it is my view that the provision of a glazed screen is an appropriate response in this instance, as it would retain the privacy of the cottage to whilst preventing loss of light, which could result from a solid boundary treatment.

Although the proposal would not block the windows of the cottage, it would align with the open space to the front. A shadow study was submitted by the applicant in response to concerns raised by the PA. This study demonstrates that as a result of the development, the open space to the front of No. 29 will be subject to some additional overshadowing. There is no perceptible difference shown in the results from December. However, the area will experience some overshadowing on the afternoons of the chosen study dates of March 20<sup>th</sup> and September 23<sup>rd</sup>. It is my view that the amenity of the space during the summer months is the most important as this is when it is most likely to be used for 'sitting out' and general amenity. Whilst the results of the shadow study show some overshadowing of the space in June, a large portion of the space is unaffected.

The location and context of the infill site and it's potential for development is noted. I would agree with the opinion of the PA that even development of a smaller scale would have some impact on the open space to the front of No. 29. Therefore, a balance must be struck between providing a design that responds to the context of the site and limits the impact on adjoining property.

If the building was to be set further back in the site, it could result in overshadowing of the windows of No. 29. The design avoids this but, as a consequence, there is some overshadowing to the open space to the front. Whilst any development on the

site would result in some impact on the adjoining property to the north, it is my view that the subject proposal seeks to minimise the impact and has responded appropriately by restricting any impacts to the open space to the front rather than the windows to the rear. On balance, it is my view that retaining the light to the windows is of more value than some additional overshadowing to the open space to the front.

I note that the proposed development is in accordance with the objectives of the CDP and national guidance which seeks to consolidate urban development by utilising vacant sites in existing settlements. It is my view that a balance has been struck that would allow for the development of the site whilst limiting the impacts on the property to the north.

#### **7.6. Other Issues**

The proposed vehicular access would result in the removal of one pay and display car parking space to the front of the site. The PA noted that this will result in a loss of revenue and recommends that, in the event of a grant of permission, that a condition be attached to seek a contribution in the amount of €5,000 in respect of the removal of the existing pay and display parking space. This contribution would be separate to the provisions outlined in the Fingal Development Contribution Scheme.

I note that, as per Section 48 of the Planning and Development Act 2000, the Contribution Scheme relates to the costs incurred by the PA by the provision of public infrastructure. In this instance the proposed development would result in a loss of public infrastructure in the form of a public parking space, which would also result in a loss of revenue for the PA. As such, it is my view that a planning condition for a contribution with respect to the loss of revenue is appropriate for the subject development.

#### **7.7. Appropriate Assessment**

The appeal site is neither within nor immediately abutting any European site. The closest European site is the Skerries Island SPA, which is approximately 0.8km away from the site. However, there is no direct link or connection to this site.

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

## 8.0 Recommendation

8.1. I recommend that planning permission be granted for the following reason and subject to the conditions outlined below.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature and scale of the proposed development, for the construction of a detached 2 storey house on a site zoned 'Town Centre', it is considered that subject to the conditions set out below, the proposed development would be in accordance with the policies and objectives of the Fingal County Development Plan 2017-2023, and the TC zoning for the site, and would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 9 <sup>th</sup> day of September 2020 and on the 18 <sup>th</sup> day of December 2020 and by the further plans and particulars received by An Bord Pleanála on the 3 <sup>rd</sup> day of February, 2021], 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
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	<p>planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>All external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of [0800] to [1900] Mondays to Fridays inclusive, between [0800] to [1400] hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>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.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>The applicant shall comply with the requirements of Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution 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</p>



	<p>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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in accordance with the terms of the Development Contribution Scheme made under section 48,(2),(c) of the Planning and Development Act 2000, as amended. The contribution shall be applied towards works to provide a public car parking space in the Portmarnock area and 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.</p> <p><b>Reason:</b> 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.</p>
9.	<p>The developer shall comply with the following transportation requirements;</p>

- a. The maximum width of the permitted vehicular access shall be 4 metres.
- b. The rear pedestrian access shall be angled into the site to allow pedestrians leaving the site to observe traffic approaching along Callaghan's Lane as they emerge, as demonstrated on Drawing No. 18-142-PL-03 submitted with the application.
- c. The permitted development shall be carried out in accordance with the Construction Methodology Report received by the Planning Authority on the 9<sup>th</sup> September 2020.
- d. No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- e. The footpath and kerb shall be dished at the developer's expense to the satisfaction of the Planning Authority.
- f. All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.
- g. The gradient of the accesses shall not exceed 2.5% over the last 6 metres of the approach to the public road.

**Reason:** In the interest of the proper planning and sustainable development of the area.

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Elaine Sullivan  
Planning Inspector

20<sup>th</sup> May 2021