



An
Bord
Pleanála

Inspector's Report ABP-309516-21

Development	Construction of 3 no. detached dwellings
Location	Seafield House, Claremont Road, Howth, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0612
Applicant(s)	John O'Hanlon
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	John O'Hanlon
Observer(s)	None
Date of Site Inspection	16 th of June 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Claremont Road in Howth, approximately 1.5km to the west of Howth village centre. Claremont Road is accessed from Howth Road and is positioned between the DART line to the south and Burrow Beach to the north. It is a narrow cul de sac road in this location with no on-street parking.
- 1.2. This area is characterised by residential properties of varying types and sizes. The original plots are generally long and front onto Claremont Road and back onto Burrow Beach, although there are some variations. Dwellings in the area date from 19th century period properties up to the present day. The original dwellings were characterised by being well set back on larger sites with mature gardens and stone walls along the frontage to Claremont Road.
- 1.3. The site (stated area c.0.297ha) is located at 'Seafield House', Claremont Road Howth. There is a large two storey dwelling within the site, set within a mature garden area. The dwelling is well set back from the road and the boundary treatment consists of a low random rubble stone wall with mature hedging inside the fence.
- 1.4. A contemporary new build with separate access is located to the rear of the subject site. Some first floor windows in these new houses face the rear of the site. 'Glenheder' is an older more mature property well set back to the east of the new access road to this contemporary scheme. The mature property 'Roslyn' is set further back to the north-west. There are trees along this avenue of this property, which overhang the eastern boundary of the site. Claremont Mews is a more recent twentieth century development, set further forward to the west of this avenue.
- 1.5. Corr Bridge is located to the west and the train line runs on the southern side of Claremont Road. Howth Village is located to the east. As noted, the site is bound to the north by 3no. two storey contemporary dwellings which have been constructed recently. The site has its own private access to the Burrow Beach to the north.

2.0 Proposed Development

- 2.1. This consists of the following:

2.2. The Construction of 3no. detached contemporary style dwellings known as Houses 2, 3 and 4, the details of which are as follows:

- (i) Existing house 1, 'Seafield House', no alterations;
- (ii) House 2 - proposed 2 storey dwelling (199sq.m), 3no. bedrooms, including rooflights, new vehicular entrance independently accessed via new laneway off Claremont Road;
- (iii) House 3 – proposed two storey over basement dwelling (289sq.m) with 4no. bedrooms, rooflights with new vehicular entrance off Claremont Road;
- (iv) House 4 – two storey dwelling (187sq.m) with 3no. bedrooms, balcony to rear at first floor level, rooflights with new vehicular entrance off Claremont Road;
- (v) New boundary treatments with new vehicular entrance gates to house 2,3 and 4, off Claremont Road, new drainage connections to all site, SUDS drainage, all associated landscaping, site and ground works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

On the 28th of January, 2021, Fingal County Council refused permission for the proposed development for 3no. reasons as follows:

1. *The application site is located within an established residential area characterised by a distinctive mature setting. The proposal constitutes piecemeal development and by reason of the building line, which is set entirely forward of the predominant building line along Claremont Road, together with the scale, bulk and mass of the proposed development would be incongruous with the established pattern of development in the area and would materially impact upon the character and amenity of the area. The proposed development would contravene the RS - Residential zoning objective for the area and Objectives PM44, DMS39, DMS40 and*

DMS44 of the Fingal DP 2017-2023 all of which seek to encourage and promote the development of under-utilised sites in existing residential areas subject to the character of the area and receiving environment being protected.

2. *The proposed development will significantly impact upon the existing road frontage vegetation and stone walls with additional driveway entrance proposed. Having regard to its location with a designated highly sensitive landscape together with an absence of a detailed landscaping plan it is considered that the proposed development would materially contravene Objective NH36 of the Fingal CDP 2017-2023 which seeks to ensure that new development does not detract from the scenic value of highly sensitive areas and as such would be contrary to the proper planning and development of the area.*
3. *The proposed development would set an undesirable precedent for other similar development, which in itself or cumulatively would contribute to the erosion of the distinctive and attractive character of the area, be harmful to the visual and residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy, to the inter departmental reports and to the submissions made. Their Assessment is summarised as follows:

- They note the residential land use zoning, but that consideration must be given as to how the proposed dwellings would integrate within the sensitive setting of the site.
- The proposed development would site entirely forward of the building line and would be at variance with the pattern of development in the area.
- The precedent referred to by the applicants i.e. Reg.Ref. F14A/0023 is not relevant to this site given the backland nature behind the building line.

- They note the concerns of the Transportation Planning Section relative to the proposed entrances.
- Also, Water Services concerns relative to the location within the Flood Zone - Coastal and in particular relative to basements.
- Note is also had of the Parks and Green Infrastructure concerns relative to the impact of the proposal on mature planting, frontage vegetation and stonewalls.
- They consider that the proposal would unduly impact on the character and integrity of this highly sensitive landscape.
- As no public open space is to be provided, they recommend that if granted that a special financial contribution condition in lieu of such be included.
- They note that the applicant has included a screening for AA within the Planning Statement and conclude that in view of the serviced nature of the area that an NIS would not be warranted.
- They conclude that the proposed development in the side/front garden of the existing house would seriously injure the visual amenity of the area, would set an undesirable precedent and would detract from the established character of the area to an unacceptable degree. The development does not accord with several objectives of the Fingal DP 2017-2023 and would materially contravene the RS - Residential Zoning Objective for the area. They recommend that permission be refused.

3.3. Other Technical Reports

Water Services Department

They recommend conditions, relative to surface water disposal. As, the subject site is within the (Flood Zone -Coastal) and the nature of the proposed development is highly vulnerable, they consider it inappropriate for any of the dwellings to have basements due to flood risk, and recommended they be omitted.

Transportation Planning Section

They have concerns about the parking layout and recommend that a swept path analysis be done, also that sightline distances be shown. They advise that any work to third-party lands will require a letter of consent from the landowner. They note the number of vehicular entrances proposed and recommend a revised layout providing inter-visibility between pedestrians and vehicles emerging from the site.

Parks and Green Infrastructure

They recommend that Additional Information be sought relative to the Site Layout & Tree Retention. They advised that the Site Layout be revised to show a shared entrance driveway that minimises the negative impact on the existing landscape features. That a complete tree survey including an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement in accordance with current standards be submitted. They recommended that a Landscaping Plan be submitted. Also, that if permission is to be granted that a development contribution condition (Objective DMS58) be included in lieu of public open space provision.

3.4. Prescribed Bodies

Irish Water

They have no objections subject to recommended conditions.

3.5. Third Party Observations

A number of submissions have been received, both for and against the proposal, these have been noted in the Planner's Report and in summary include the following:

Support

- This proposal will provide for high quality contemporary family dwellings in-keeping with recent developments on Claremont and Burrow Roads.
- The large private garden is currently underutilised, and this will provide an opportunity for a high-quality scheme.

- The development has shown consideration for residential amenity and for the distinctive character of Claremont Road.
- The planning proposal is very similar in terms of overall footprint and modern low energy use designs, to the O'Callaghan family infill build at: 18B, C & D Claremont Road in 2017.
- It is a non-commercial enterprise, and the houses will be used solely by the O'Hanlon family.
- They consider the proposed new accesses acceptable and note that the road is lightly trafficked.

Concerns

- The proposed infill development would materially damage the pattern of development of the area.
- It would impact adversely on the building line, and visual amenity and materially affect the character of this area of Claremont Road.
- It would contravene the zoning objective and residential objectives in the Fingal CDP 2017-2023.
- It would lead to overlooking and loss of privacy and impact adversely on the residential amenity of the area.
- The accuracy of some of the drawings is queried.
- That the proposal would lead to an overdevelopment of the site.

4.0 Planning History

The Planner's Report and the Planning Report submitted with the application have regard to the planning history of the area. This includes the following:

Subject site

- Reg.Ref. F97B/0459 – Permission granted in 1997 for side extension to existing house.
- Reg. Ref. F01B/0433 – Permission granted in 2001 to construct a pedestrian access to the beach.

Within the Vicinity – (infill - located immediately to the North of the site)

- Reg.Ref. F14A/0023 – Permission granted for the demolition of existing single storey dwelling and outbuildings and the construction of 3no. flat roofed part single storey, part two storey dwellings with 1st floor balconies and roof lights and all ancillary works, including landscaping etc.

These contemporary houses have been constructed to the rear of the site and have separate access to Claremont Road.

Sebring located to the west with access to Claremont Road

- Reg.Ref. F18A/0629 - Permission refused by the Council and subsequently by the Board (ABP-303603-19 refers) for the Demolition of garden room, and construction of a single storey detached dwelling. This was refused for the following reason:

The site is located within an established residential area and is zoned 'RS' Residential in the Fingal County Development Plan 2017-2023, with an objective to provide for residential development and protect and improve residential amenity. Furthermore, Objectives PM44, DMS39 and DMS40 of the Development Plan in relation to infill development seek to encourage and promote the development of underutilised infill sites in existing residential areas subject to the character of the area and environment being protected. The proposed development, by reason of its building line, which is set entirely forward of the predominant building line along Claremont Road, would be at odds with the pattern of development in the area and would materially affect the character and amenity of the area. The proposed development would contravene the zoning objective for the area and Objectives PM44, DMS39 and DMS40 of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

It is noted that the Planning Report submitted with the application also refers to examples of other infill development permitted in the Howth area, some of which is not proximate to the subject site.

5.0 Policy Context

5.1. Development Plan

The Fingal Development Plan 2017-2023 is the relevant statutory plan. The following provisions of the Development Plan are considered to be relevant:

The site is zoned RS Residential with an objective to “provide for residential development and protect and improve residential amenity”.

Placemaking

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.

Objective PM45 - Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Objective PM64 – Protect, preserve and ensure effective management of trees and groups of trees.

Natural Heritage

Objective NH36 - Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:

- Causes unacceptable visual harm
- Introduces incongruous landscape elements
- Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.

Objectives NH59 and NH60 seek to control development in coastal areas, protect the special character of the coast, accommodate new development

within existing developed areas and ensure that development is designed and landscaped to the highest standards.

Development Management

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.

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.

Objective DMS29 – 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.

Objective DMS30 - Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.

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.

Objective DMS40: New corner site development shall have regard to:

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- The existing building line and respond to the roof profile of adjoining dwellings.
- The character of adjacent dwellings and create a sense of harmony.
- The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.

- Side/gable and rear access/maintenance space.
- Level of visual harmony, including external finishes and colours.

Objective DMS44: Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.

Objective DMS87 - Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

- 3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.
- Houses with 4 or more bedrooms to have a minimum of 75 sq m of private open space located behind the front building line of the house.

Narrow strips of open space to the side of houses shall not be included in the private open space calculations.

5.2. Natural Heritage Designations

The designated area of the Baldoyle Bay SAC (Site Code: 000199) is located c.40 metres to the north of the site, while the designated area of the Baldoyle Bay SPA (Site Code: 004016) is c.1km to the west of the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development for housing on zoned and serviced land and nature of the receiving environment, 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

A First Party Appeal has been submitted by Hughes Planning & Development Consultants on behalf of the applicant John O'Hanlon, against the Council's reasons to refuse permission for the proposed development. They have regard to the contextual location, planning history and policy, to the submissions made and to the interdepartmental reports. They set out their planning justification and rationale for the proposed development. Their grounds of appeal are summarised as follows:

Alternative Design Option

- The applicants are seeking permission for the proposal as originally submitted to the Council and they ask the Board to consider this option in the first instance.
- In response to the Council's decision to refuse permission they have also included an alternative design option to overcome the Council's decision to refuse permission.
- They provide that this appeal submission includes revised architectural drawings prepared by Tyler Owens Architects, landscape plan, trees survey, flood risk assessment and swept analysis.
- These revised plans submitted with the grounds of appeal are to demonstrate that the proposed development can be completed while, at the same time, complying with the requirements of the development plan and respecting the existing amenities in the surrounding area. They ask the Board to consider this alternative design option put forward when considering this appeal.

Regard to Council's Reasons for Refusal

Reason no.1

- The increased density at this location should be welcomed considering the site is just over 1km from the Howth DART Station, bus stops on the Howth Road and a range of amenities in Howth village.

- Claremont Road is characterised by a mix of architectural styles - they include photographs.
- They consider that the proposed infill development complies with planning policy and objectives and will not be incongruous with the established building pattern in the area or impact negatively on the character of the area.
- They provide an assessment of the proposal relative to each of the policies and objectives raised in the Council's reason for refusal.
- They submit that the proposed dwellings respect the height and massing of existing residential units. That they are modest in form compared to some of the others in the area (photos included).
- The proposed infill development in a large side garden area makes a more efficient use of land in an existing residential area.
- The proposed dwellings do not threaten the amenity of neighbouring dwellings. They are two storey in height and are smaller than the existing Seaford House (Figure 14.0 refers).
- There is a precedent for such development existing along Claremont Road and in particular they refer to the contemporary dwellings on an infill site to the rear of the site Reg.Ref. F14A/0023 refers.
- They note the range of architectural styles on Claremont Road and consider this is emphasised by The Lake House (Reg.Ref. F12A/0032) a contemporary dwelling adjoining a small lake in the front garden.

Reason no. 2

- They refer to the existing boundary treatment of the site to Claremont Road and to the range of boundary treatments in the area.
- They provide that the front boundary has been upgraded to provide a new wall and the removal of trees.
- They refer to the details Tree Survey prepared by Charles McCorkell, a copy of which is included in the Arboricultural Report submitted.

- They refer to the 'Alternative Option' submitted with this proposal and note that the Applicant has limited the new entrances to one, thus retaining most of the front boundary wall – Appendix B refers.
- They provide that the proposed development will have no effect on the character of the street. They include Figures 16,17,18 and 19 which refer.
- Additionally, a Landscape Plan and Report has been prepared by Kevin Fitzpatrick Landscape Architects, which proposes further screen planting.

Reason no.3

- They submit that the precedent for infill development along Claremont Road has already been set. Seafield House is one of the last to seek infill development on their land. They provide details of a list of cases where permission was granted for infill development in the Claremont Road area.

Compliance with Fingal CDP 2017-2023

- The proposal is consistent with the Residential Zoning Objectives, in that it will provide additional dwellings in an area with strong transport links to the city. This proposal for infill development provides for an increased density and an effective usage of the site, close to public transport links (Figure 24.0 refers).
- The proposed dwellings have been designed to provide high levels of amenity to its residents while protecting neighbouring dwellings.
- Seafield House, is not a P.S nor located in an ACA, or CA as per the Fingal CDP 2017-2023. Claremont Road has not been afforded any kind of special status in the Development Plan.
- It is in accordance with National Planning Policy – reference is made to 'The Project Ireland 2040- National Planning Framework (2018). Also, to the National Development Plan 2018-2027.

Flood Risk

- They have compared a Flood Risk Assessment which confirms that the full development is in Flood Zone C. As such a Justification Test is not required.
- The basement for House 3 will be over 1.4m OD above the predicted 1000 year coastal flood zone level in the area.

Conclusion

- They submit that the appeal has appropriately dealt with the concerns expressed by the PA and that the proposed development will respect the character and preserve the amenities of adjacent dwellings.
- It is compliant with the zoning objective and the policies and objectives of the Fingal CDP 2017-2023, including making efficient use of land.
- The proposal will provide a high level of residential amenity for future residents while preserving adjacent residential amenities and the character of the area.
- The proposal is in accordance with the proper planning and sustainable development of the area, and permission should be granted.
- Photomontage Images of Existing/Proposed Development prepared by ARCHFX have been submitted with the Appeal.

6.2. Planning Authority Response

They provide that this application was assessed against the policies and objectives of the Fingal DP 2017-2023 and existing government policy and guidelines. That the development was assessed having regard to the development plan zoning objective as well as the impact on adjoining neighbours and the character of the area.

They have regard to the proposed amendments submitted with the appeal and they remain of the opinion that the proposed development is not acceptable for reasons outlined in the Council's reasons for refusal.

In the event the appeal is successful they provide that provision should be made for applying a financial contribution in accordance with the Council's Section 48 Development Contributions Scheme.

7.0 Assessment

7.1. Context and Policy Considerations

- 7.1.1. The site is shown on Sheet 10 of the Fingal Development Plan 2017-2023 and is within the 'RS' Residential Zoning where the objective is to: *Provide for residential development and protect and improve residential amenity*. The site is on the northern side of Claremont Road and is within 1.5kms of Howth village centre and c.1km of Howth DART Station. While there is recently constructed contemporary infill housing to the north, the site is within an area that has been characterised by late 19th and 20th century dwellings on larger sites, with mature landscaping. It is located towards the edge of an established residential area, close to the Barrow Beach and the shore. It is also close to Natura 2000 designated sites.
- 7.1.2. Regard is also had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. Chapter 4 refers to *Making Stronger Urban Places* and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being*.
- 7.1.3. Also, of note is Section 5.9 of the 'Sustainable Residential Development in Urban Areas Guidelines, 2009' which provides: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill*.
- 7.1.4. The First Party considers that having regard to the locational context that the proposed development is appropriate for this site and makes efficient use of land. That as residential infill it is in accordance with planning policy and objectives and will be in keeping with the pattern of development in the area, would positively contribute to the streetscape, would provide a high level of accommodation for future residents and would not injure the amenities of surrounding properties or character of the area.

- 7.1.5. It is considered that the principle of an infill residential development is acceptable relative to the residential land use zoning. Any new application on the 'RS' zoned lands will be assessed on its merits based on the land use zoning and its suitability having regard to its location within a sensitive coastal landscape. However, regard is had to the Council's reasons for refusal and it is noted that there is concern that the cumulative impact of the proposed development, taking into account the breach of the building line, scale, bulk and mass of the proposal and the number of vehicular entrances proposed, would result in a visually intrusive development and would set an undesirable precedent that would be contrary to planning policies and objectives and impact adversely on the character and visual amenity of the area.
- 7.1.6. Regard is had further to the documentation submitted, including the 'Alternative Design Option' submitted with the First Party Appeal and to the issues raised by the Council's reasons for Refusal including relative to compliance with planning policy and objectives, design and layout, impact on the residential amenities of neighbouring properties, access and drainage, landscaping, precedent and the impact on the pattern of development and character and amenities of the area in this Assessment below.

7.2. Design and Layout

Original Submission

- 7.2.1. Regard is had to the plans and to Planning Report submitted with the application. This provides a description of the proposed development, which seeks permission for the construction of 3no. two storey dwellings (Houses 2, 3 and 4) on the grounds of Seafeld House (House 1). There are no works proposed to Seafeld House (shown as House 1 on the plans) itself. All on a site of 0.297ha, with frontage to Claremont Road.
- 7.2.2. The Site Layout Plan submitted shows that proposed houses 3 and 4 are to be set further forward with frontage to Claremont Road. To fit into the sites these are shown as long narrower contemporary house types on rectangular plots. House 2 is a larger house shown set further back on the site to the north-east of Seafeld House and to the rear of houses 3 and 4. All 3 of these houses are to be sited on sub-divided plots in the front and side garden of 'Seafeld House'.

- 7.2.3. No change is proposed to the vehicular entrance to Seafeld House. As shown on the original plans separate vehicular entrances are proposed for each of the new houses, all of which include on-site parking. It is noted that the blue line boundary includes the pedestrian access to the Burrow Beach to the north of the site.

House 2

- 7.2.4. This is to be a two storey 3no. bed dwelling (199sq.m) on a backland site comprising 712sq.m. The Floor Plans show that living accommodation and one bedroom is to be provided on the ground floor, with two bedrooms at first floor level. The house is to be contemporary in form with a flat roof and is shown c. 6.65m in height at first floor level.
- 7.2.5. It is shown sited less than 2m off the northern (rear) boundary. It is to be sited less than 22m from the new build house to the rear. It is provided that House 2 has been designed to limit overlooking of new build House to the rear. Of the three first floor windows, two bathroom windows are to be frosted. The third first floor window serves the stairs and landing, and it is provided will not result in overlooking. Private amenity space is to be located to the side of the dwelling. It is noted that car parking for 2no. cars will be provided to the front of the house and access to Claremont Road will be provided via a new laneway.
- 7.2.6. The access to the Burrow Beach to the north of house 2 is shown in blue 'Area in Ownership of Applicant – No Works Here'. Whereas this pedestrian access now serves Seafeld House, it appears that it will be cut off from the existing and the proposed development as a result of the siting of house 2, which is proposed within 2m of the northern site boundary. I would also be concerned about the proximity of House 2 to the new build at the rear (in particular House D), which is less than 22m. As shown on the Site Layout Plan the two storey element is c.15m from the front of the new house to the rear (contrary to Objective DMS28). While, the First Party provide that these windows can be obscure glazed, I would be concerned and that there will be some overlooking and loss of outlook for new houses nos.18 C and D. I would also consider that the proposed siting is too close to the rear boundary and note that it will restrict the private rear access to the beach.

House 3

- 7.2.7. As shown on the Site Layout Plan House 3 is to be located to the front of the site adjacent to the access lane to House 2, but to have its own separate entrance. This is a long rectangular site with an area 402sq.m. House 3 is to be a two storey 4no. bedroom dwelling (289sq.m). This is to include a gym, cinema and plant room at basement level; living accommodation at ground floor level and 4no. bedrooms at first floor level. The house has a flat roof and as shown varies between 7.2 to 7.9m in height. It is provided that it has been designed to limit overlooking of house 4 to the east. First floor bathroom/walk-in-robe windows are to be obscure glazed. Car parking for 2no. cars is to be provided to the front of the house and access to Claremont Road is to be provided via a new entrance with sliding gate. The Council's Water Services Department comments regarding the appropriateness of the basement, relative to potential risk of flooding have been noted below.

House 4

- 7.2.8. This is to be a two storey, 3no. bed dwelling located to the front of the site along the eastern boundary in an area comprising 424sq.m. The dwelling is to be 187sq.m, comprising living accommodation on ground floor and 3no. bedrooms on first floor levels. The house has a flat roof and to be c.7.8m in height. It is submitted, that it has been designed to limit overlooking of House 3 to the west and the existing dwellings to the east of the subject site. The two first floor windows serve bathroom/walk-in-robe so as to limit overlooking of neighbouring dwellings. Car parking for 2no. cars is to be provided to the front of the house and access to Claremont Road is to be provided via a new entrance.
- 7.2.9. As shown on the plans the minimum standard of 2.3m (Objective DMS29) between houses 3 and 4 is to be provided. However, I would have concerns about the proximity of House 4, which is shown sited less than 1m off the eastern site boundary. Also, taking into account, the proximity to the mature trees along the access route to 'Roslyn House' to the east.

Alternative Proposal

- 7.2.10. Subsequent to the Council's reasons for refusal the First Party have included revised drawings with their Appeal Submission. This includes the following:

- The two houses to the front of the site have been set back to create a staggered building line with Claremont Mews to the east;
- The proposed 3no. entrances have been reduced to 1no. entrance;
- The existing boundary treatment will be maintained.

7.2.11. The 'Alternative' Site Layout Plan shows house 3 sited c.12.9m set-back and house 4 set-back c.14.4m from the road frontage. This is to provide a stepped building line with the terrace to the east which are shown set back c.18m from the road frontage. House 4 while less than 1m from the eastern site boundary, is shown set back c.7m off the side boundary with the terrace of houses 'Claremont Mews' to the east. It is of note that the existing house has a set back of c.35m from the road frontage, and no.18 to the west of that is set back c.36m.

Additional Details

7.2.12. It is noted that as shown on the floor plans all of the proposed houses exceed minimum floor area and private open space standards. Artists' impressions of the proposed contemporary design of the houses have been included on the drawings submitted. They are low profile, cubic in form, with flat roofs and a mixture of external finishes is given. Details of proposed boundary treatment is also given on the drawings submitted.

7.2.13. As part of the revised plans while the individual house types, would remain the same, all 3no. houses proposed would be accessed via a single access off Claremont Road. This is to be in the central location as shown to serve House 2 in the original plans submitted. Houses 3 and 4 are to be served via a joint access from this access lane. As shown on the Site Layout Plan submitted with the appeal, this will result in revisions to the parking layout, so that there will be a shared on-site parking area, with 1no. space in front of House 3 and 3no. spaces to the front of House 4. This layout is necessitated so that the existing cedar tree at the frontage can be retained. It is noted that this tree, which adds to the streetscape, is not shown retained in the original submission.

7.2.14. Having regard to the design and layout of the proposed houses it is submitted that they will not cause loss of daylight to adjoining residential properties nor overshadowing to the neighbouring properties in the vicinity of the development site.

That the houses have been designed and orientated so as to have no adverse impacts with regard to daylight, sunlight and overshadowing.

- 7.2.15. If the Board decides to permit, I would consider that the alternative scheme would be preferable, particularly in view of the proposal to limit the number of entrances as this would lessen the impact on the continuous stone wall along the site frontage that is part of the character of the area. However, I am concerned that it does not address the Council's reasons for refusal regarding the impact on the building line, impact on the pattern of development and character and amenities of the area and undesirable precedent.

7.3. Material Contravention

- 7.3.1. Reference is had to the Council's second reason for refusal. This provides that the proposal would significantly impact upon the existing road frontage vegetation and stone walls with additional driveways proposed. Also, that it would impact on the established character of the area, noting that the site is within a highly sensitive landscape. It provides that this proposal would materially contravene Objective NH36 of the Fingal CDP 2017-2023. This has been quoted in the Policy Section above and includes: *Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas...*
- 7.3.2. Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for a development which they are concerned would contravene materially the development plan or local area plan. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.3.3. In this instance the proposed development is clearly not of strategic or national importance. I would not consider that there are conflicting objectives in the

Development Plan. I would consider that the proposal would not be in character with the pattern of development in the area. Therefore, in that respect the proposal would materially contravene Objective NH36 of the Fingal CDP 2017-2023.

7.4. Landscaping and Boundary treatment

- 7.4.1. It is noted that the existing boundary treatment along Claremont Road comprises a stone wall with a c. 2m high wicker fence behind the wall. There is also, a variety of evergreen hedges, which are not native planting, as well as 3no. sycamore trees along the site frontage. The site, which forms the side and front garden of 'Seafield House' has a sylvan appearance that is enhanced by landscaping and trees particularly along the site boundaries and mature gardens.
- 7.4.2. It was originally proposed to provide 3no. entrances (one to serve each dwelling). To achieve this, the existing stone wall along the frontage would be punctured, with the remainder of the wall being retained. New pillars were to be constructed using the material from the demolished wall to allow the new entrance to maintain the character of the stone wall. Figure 18.0 of the Appeal Statement provides a Contiguous Elevation which shows the 3no. entrances along the road frontage of the site.
- 7.4.3. It is noted that the site is located in a Highly Sensitive Landscape on Green Infrastructure Sheet 14. The Parks and Green Infrastructural Division concerns are noted, relative to the need to provide additional information on landscape features such as trees and hedgerows to be retained and incorporated into the Site Layout. They noted particular concerns relative to the proposed entrances, soakaways and underground services. Also, that no Landscaping Scheme had been submitted, providing that particular concern should be given to the visual impact of boundary treatments, the incorporation of existing vegetation into a new site layout and planting that will tolerate the coastal conditions.
- 7.4.4. A Tree Survey has been prepared and is included in the Arboricultural Report submitted. This founds that 5no trees to the front of the property, 1no. are Category C – Low Quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 15mm. The Tree Survey provides further detail on how existing trees, particularly along the eastern boundary will be

protected. I would consider the loss of trees and planting particularly along the road frontage will impact on the character of the streetscape.

- 7.4.5. It is of note that the 'Alternative Option' has included a revised entrance which would limit the entrance to one to serve all 3no dwellings, thus retaining most of the wall – Appendix B refers. The revised Site Layout Plan shows that it is proposed to retain the stone wall along the frontage. A Tree Survey & Constraints Plan showing the existing trees on the site, has been submitted. It is noted that while some of these are along the Claremont Road frontage and interspersed within the site, they are predominantly located adjacent to the eastern site boundary. While many of these are category C, those close to House 2 are category B. A Tree Removals and Protection Plan has also been submitted.
- 7.4.6. An additional Landscaping Plan has been submitted with the Appeal. This proposes the planting of additional trees on the site with the aim to restore any lost character through the removal of trees to the front of the site. I would be concerned that this proposal, in view of the proximity of the proposed houses to be constructed particularly to the eastern site boundary would impact adversely on mature trees. It is noted that a letter of consent has not been submitted relative to any works to the trees along the avenue proximate to the eastern boundary within the grounds of 'Roslyn House'.

7.5. Impact on the Character and Amenities of the Area

- 7.5.1. It is noted that 'Seafield House' is not a Protected Structure, nor located in an ACA or in a CA in the Fingal CDP 2017-2023. The existing house is to remain in-situ, albeit its setting will be changed in that the large mature landscaped garden is to be subdivided to accommodate 3no. additional detached houses. Seafield House (no.18A as shown on the Site Location Plan) is well set back on site on mature grounds and the building line corresponds to the large-detached property no.18 'Glenheder' to the west. It is noted that there is more recent build 'Claremont Mews' to the east, is set further forward of 'Roslyn' the more mature property to the north-east of the site. Therefore, the building line while defined to the west is not clearly defined to the east.

- 7.5.2. The First Party consider that the proposal represents an innovative contemporary design solution and will increase density and make more efficient use of the site. Photomontages have been submitted with the appeal submission. This shows the existing site frontage to Claremont Road and that proposed. Contextual Elevations showing the Existing and Proposed Elevations have also been submitted. It appears that the reason the proposed development would not be visible is due to the extent of trees/planting along the site frontage, many of which will be removed to facilitate the proposed development.
- 7.5.3. The submissions made have expressed concern that this proposal is for a series of cubic; abstracted white and zinc houses, very close in nature to the visual appearance of the 3 infill houses by the same architect to the north of the Seafield site. That this will result in 6 of these new contemporary houses in total of a similar form and visual language which will be at a scale and cohesiveness of approach which is at odds with the aesthetic of Victorian, Edwardian, and 20th century and contemporary houses which display a richness and variety of expression. That the proposal would represent an overdevelopment of the site to the detriment of the residential character and the amenities of the area.
- 7.5.4. The First Party refers also to the 'Alternative Option' and submits that due to the set back proposed in the revised drawings (Appendix B) that the proposed development will have no effect on the character of the street as shown outlined in Figure 19.0. However, the character of the area is defined, in my view, by the setback of dwellings from the road, the long front gardens, the low stone walls along the road frontage and mature landscaping. I would consider that the proposal constitutes piecemeal development and any future development of the site should be done comprehensively, in a more integrated manner, exploring the possibility of a reduced number of units, further set back from the site frontage, site boundaries and the provision of shared entrance. This would also allow for greater separation distances and a retention of boundary trees/landscaping.
- 7.5.5. I am concerned that the proposed development, including the alternative will not integrate well into the streetscape and that it will appear visually discordant and crammed into the site. That it would be contrary to Objectives in the Fingal CDP 2017-2023 including PM44 and DMS39. I would be concerned that it would set an

undesirable precedent for this type of discordant development, in the mature front gardens of these sites on Claremont Road.

7.6. Precedent

- 7.6.1. Reason no. 3 of the Council's decision refers to setting an undesirable precedent, which cumulatively would impact adversely on the distinctive character and amenity of the area. The First Party response submits that the precedent for infill contemporary dwellings on larger site areas has already been set in the Claremont Road area. They refer to a number of cases where permission was granted including as the most relevant, Reg.Ref. F14A/0023 where permission was granted for 3no. contemporary 2 storey dwellings (the numbering system at the entrance and on the houses refers to 18B,18C and 18D). Figure 22.0 shows an aerial view, of these detached dwellings to the north of the subject site. In my opinion, this also gives an idea of the cumulative impact of the new build. This application was not subject to appeal and a copy of the Council's decision is included in the History Appendix to this Report. It could however be considered that this development represents a different scenario to that currently proposed in that it is on a backland site, and other than the location of the entrance does not have frontage to Claremont Road.
- 7.6.2. It is also of note that a recent residential infill further to the west at 'Sebring' on Claremont Road was recently refused by the Council and subsequently by the Board (Reg.Ref. F18A/0629 and ABP-303603-19 refer). A copy of the Board's decision is included in the History Appendix to this Report. The Planner's Report also refers to Reg.Ref.F18A/0174 which was previously refused on the 'Sebring' site.
- 7.6.3. While it is agreed that a precedent has been set for such infill development, it is considered that each case represents a different scenario and needs to be considered on its merits, having regard to its contextual location and current planning policies and objectives. It is important not to set an undesirable precedent as this would not be in the interests of the proper planning and sustainable development of the area.

7.7. Drainage and Flooding

- 7.7.1. It is proposed to connect to existing public services. An Engineering Report has been submitted with the application, which provides details of foul and storm water drainage and of water demand management. Drainage Plans have been submitted indicating connections and the locations of proposed soakaways.
- 7.7.2. Details are given of the proposed construction of the basement as part of House 3. It is noted that the Council's Water Services Department are concerned about flooding (Flood Zone Coastal) and the nature of the proposed development (highly vulnerable). They therefore consider it inappropriate for any of the proposed dwellings to have a basement in light of flood risk and that therefore this should be omitted.
- 7.7.3. The First Party Appeal includes a 'Site Specific Flood Risk Assessment'. This includes details of OSi mapping of the area. This notes that there are no recorded flooding events in the area, the 10m contour lines on this mapping confirm that the proposed site is located on land below 10m OD. FEMFRANS Mapping has been submitted to confirm that fluvial flooding has not been predicted at the proposed site during a 100 year or a 1000year fluvial flood event. Plate 3.3 shows Coastal floodplain extents within the vicinity to the west of the proposed site, but not predicted for the subject site.
- 7.7.4. The FRA provides that the topographical survey of the site shows that both the entirety of the site and the proposed FFLs will be located well above the predicted 1000 year coastal flood plain level in the area (3.4m OD). With a predicted 1000 year coastal flood level of 3.41m OD, Plate 4.4 shows that the basement level of House 3 will be located over 1.4m above the 1000 year coastal flood level. Therefore, they provide that the basement level FFL has a sufficient freeboard above the predicted 1000 year coastal level to allow for uncertainties.
- 7.7.5. Based on their findings they provide that they have demonstrated that the basement level of proposed House 3 and therefore the full extent of the proposed development, including all three dwellings, driveways and gardens, will be located above both the predicted 1000year fluvial and coastal floodplains. Therefore, the proposed development is located in Flood Zone C and a Justification Test is not required.

7.8. Screening for Appropriate Assessment

- 7.8.1. The Planning Report submitted with the application provides that the proposal has been screened for Natura Impact Assessment which found the proposed development will not result in significant adverse impacts to Natura 2000 sites in the vicinity, which include Baldoyle Bay SAC (Site Code: 000199) and North Bull Island SPA (Site Code:004006) which are located between 45m and 1.1km north and south west (Figure 35 refers) of the application site. It is submitted that the proposed development complies with the requirements for developing near a Natura 2000 site and will not pose a threat to these sites.
- 7.8.2. It is noted that the Council's Parks and Green Infrastructure Division considered that additional information should be sought due to the location of the site proximate to Natura 2000 site. That an AA Screening Report has not been submitted. That this has also not been submitted with the First Party Appeal. The Planner's Report refers to the details in the Planning Report submitted, as noted above, and considered that having regard to the nature of the development within an established residential area and subject to satisfying the issues raised by Irish Water no AA issues would be likely to arise.
- 7.8.3. It must be noted that the appeal site while proximate is not within or adjoining a Natura 2000 site. It is a fully serviced and zoned suburban site, which is surrounded by existing residential development, some of which is closer to Baldoyle Bay SAC. There are no watercourses within or proximate to the site. Subject to standard good practice construction methods and having regard to nature and scale of the proposed development, the nature of the receiving environment and the distance to the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the established nature of the residential area and the pattern of development in the vicinity, the siting of the proposed development being set further forward on the site and of the properties on either side of the site, the proximity of the proposed new build to the northern and eastern site boundaries, the limited separation distances between proposed House 2 and the newly constructed dwelling to the rear, it is considered that the proposed development would constitute an overdevelopment of this site and detract from the character of the mature property and sylvan gardens of 'Seafield House'. It would lead to a cramped form of urban development that would be visually discordant with the pattern of development in the area, would set an undesirable precedent for future development and would seriously injure the character and amenities of the area. As such, the proposed development would not be in accordance with Objectives NH36, PM44, DMS28, DMS39, and DMS44, as set out in the Fingal County Development Plan 2017-2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

18th of June 2021