



An
Bord
Pleanála

Inspector's Report

ABP-310245-21

Development	A new part single, part two storey house to the north side of the existing house; with a new vehicular entrance onto La Vista Avenue.
Location	Site to the side of Lurganare, 27/28 Strand Road, Sutton, Dublin 13.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0509
Applicant(s)	Gerry Walsh
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Margaret and Norbert Bannon Leonard Cawley
Observer(s)	None
Date of Site Inspection	31 st July, 2021.

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on a corner site at the junction of Strand Road and La Vista Avenue. This section of Strand Road faces west towards the eastern end of the Bull Island and La Vista Avenue is a cul de sac comprising predominately single storey and dormer houses.
- 1.2. The existing development on the site comprises a two storey house that is located centrally on the site. The house has a detached garage located at the south east corner of the site and a conservatory on the northern side of the house. The location of this existing house is such that it matches the buildings lines formed by the adjoining two houses to the south on Strand Road and also the houses located to the east on La Vista Avenue.
- 1.3. The existing site boundaries comprise a high stone wall to the front (west) facing elevation to Strand Road, while to the north the boundary comprises a lower level (c.1.7 metre high) block wall. The northern end of the site is characterised by tall mature trees and hedgerow that form a visual screen to the site when viewed from the east on La Vista Avenue.
- 1.4. The existing vehicular access to the appeal site is via an entrance located close to the southern end of the frontage to Strand Road. There is also a pedestrian gate onto La Vista Avenue. The existing junction of La Vista Avenue and Strand Road is characterised by restricted visibility for traffic exiting La Vista Avenue due to the high western boundary on the appeal site, the fact that this boundary wall extends out to the roadside edge and a slight bend in Strand Road to the south of the site. There is currently no footpath on Strand Road in front of the appeal site.
- 1.5. Development in the vicinity of the site on Strand Road comprise a range of house types and styles and the house immediately to the south of the appeal site is included on the record of protected structure for Fingal County Council. Development is currently being undertaken on the site to the north of the appeal site to the side and rear of No.1 La Vista Avenue.
- 1.6. The stated area of the appeal site is 0.1043 ha. and the stated floor area of the existing house on the site is c.175 sq. metres.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of what is described in the notices as a new part single storey and part two storey house to the immediate north of the existing house on the site. The design proposed is contemporary with a flat roof and the inclusion of significant glazing and a balcony area at first floor level. The scale of the two storey element is such that it would be lower than the eaves height of the existing house on the site and the internal layout is proposed to comprise three bedrooms with a total floor area of 118.4 sq. metres.
- 2.2. The development is proposed to be accessed via a new vehicular access from La Vista Avenue in the western boundary of the site, and off street parking for two cars is proposed to be provided in the north east corner of the site in an area that currently forms part of the rear garden of the existing house on the site.
- 2.3. In order to facilitate the development, the demolition of the conservatory located to the northern side of the existing house on the site is proposed (c.22.6 sq. metres). The development also proposes the removal of the existing front boundary wall to Strand Road and the setting back of this boundary by 2 metres from the existing position to allow for the construction of a new 2 metre wide footpath across the frontage of the site to Strand Road. The new boundary wall onto Strand Road is proposed to be of stone construction and c.1.7 metres in height.
- 2.4. The private amenity space to serve the proposed dwelling is indicated as being provided both to the front and rear of the proposed house and would be enclosed behind the existing c.1.7 metre high boundary wall to La Vista Avenue and the proposed new boundary to Strand Road.
- 2.5. The development is proposed to be connected to the public water supply and drainage networks and surface water is proposed to be disposed of via soakpits on site.

3.0 Planning Authority Decision

3.1. Further Information

Prior to the issuing of a decision the Planning Authority requested further information on the following items / issues:

- Submission of a tree survey including an arboricultural assessment, tree constraints plan, tree protection plan and arboricultural method statement. Particular concern noted regarding the proposed parking of cars under tree canopies.
- Demonstration of separation of 3 metres between the proposed dwelling and the existing Irish Water water main.
- Submission of a pre-connection enquiry to Irish Water.
- Submission of a flood risk assessment as required under the flood management guidelines for Planning Authorities.

The following is a summary of the main information / alterations proposed on foot of the response to this request for further information:

- A tree survey report was submitted. This report sets out the proposed construction techniques to ensure that the existing trees for retention would not be impacted by the proposed development including measures for the car parking area.
- Engineering report submitted that indicates the location of the development relative to the water main.
- A Pre connection enquiry has been submitted to Irish Water.
- A site specific flood risk assessment submitted.

3.2. Decision

The Planning Authority issued a Notification of Decision to grant Permission subject to 15 no. conditions, of which the following are specifically noted in the content of the current appeal:

- Condition No.5 requires that the proposed balcony at first floor level shall not project more than 2 metres beyond the building line at this level.
- Condition No.6 requires the setting back of the boundary wall to Strand Road to facilitate the proposed footpath and for the reinstatement of the new wall to reflect the existing in terms of finishes and height.
- Condition No. 9 requires that prior to the commencement of development, the developer shall submit a site plan that shows the required minimum 3 metre clearance between the house and the Irish Water water main.
- Condition No. 10 requires that a connection agreement with Irish Water shall be entered into prior to the commencement of development.
- Condition No.11 specifies detailed requirements regarding the provision of the new footpath and visibility at the junction.
- Condition No.12 sets out detailed requirements with regard to tree protection and compliance with the tree protection / arboricultural assessments submitted as part of the further information response.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the Planning Officer notes the planning history of the site, internal and external reports received and the third party observations and that the form of development proposed form of development is acceptable in principle on lands zoned Objective RS. Further information requested consistent with the notification of decision which issued and second report subsequent to the submission of further information recommends a grant of permission that is consistent with the Notification of Decision which issued.

3.3.2. Other Technical Reports

Transportation Planning Section – No objection to the proposed development.

Stated that the proposed set back of the western boundary to provide a footpath will significantly improve sightlines at the junction. Car parking provision considered to be adequate.

Water Services Department – No objection. Noted that the site at low risk of coastal flooding based on the CFRAMS data and that the applicant should carry out and submit a flood risk assessment.

Parks and Green Infrastructure Division – further information recommended regarding a tree survey and tree constraints plan. In particular the proposed parking of cars under existing trees is noted.

3.4. Prescribed Bodies

Irish Water – Report recommends further information but requests that in the event of a grant of permission that conditions be attached that demonstrate separation from existing water main and that a connection agreement would be signed with Irish Water prior to the commencement of development.

3.5. Third Party Observations

A number of third party submissions were received by the Planning Authority and the following summarises the main issues raised in these submissions:

- That the proposed development is very similar to the previous proposal that was refused permission and that the reasons for refusal in that case have not been addressed in the current proposal.
- That the vicinity of the site is already congested, and the proposed development would exacerbate this congestion.
- That the development would break the building line formed by houses on La Vista Avenue,

- That the design of the development is out of keeping with the established character of houses on adjacent sites.
- That the development would be visually obtrusive.

4.0 Planning History

Fingal County Council Register Ref. F19A/0640 – Permission refused by the Planning Authority for the construction of a new two storey house on a site to the side of the existing house on the site and the creation of a new vehicular access from La Vista Avenue. Permission was refused by the Planning Authority for 4 no. reasons that can be summarised as follows:

- That the development would breach the building line to the east on La Vista Avenue and, by virtue of its scale and mass, represent a visually obtrusive form of development on this prominent site and having a negative impact on the existing open nature of the junction with Strand Road and La Vista Avenue.
- That the proposed development involves the subdivision of the overall site such that parking is proposed to be provided in the rear garden and such that it would result in a haphazard form of infill development.
- That the location and layout of the proposed off street parking would reduce the private amenity space to below the minimum acceptable standards and would contravene Objective DMS87 of the development plan.
- That the proposed development would, by virtue of inadequate sight lines at the junction of Strand Road and La Vista Avenue, result in a traffic hazard.

Fingal County Council Ref. F20A/0287 – Permission granted for the construction of a new house to the rear of No.1 La Vista Avenue to the north of the current appeal site. This development is of a contemporary style and was under construction at the time of inspection of the appeal site.

5.0 Policy Context

5.1. Development Plan

The appeal site is located on lands that are zoned Objective RS under the *Fingal County Development Plan, 2017-2023* with the stated objective *'to provide for residential development and protect and improve residential amenity'*.

The adjacent house to the south of the appeal site is included on the Record of Protected Structure for Fingal (Ref. 926) and is described as an early 20th century modern style house that was designed by Michael Scott.

The following objectives are considered relevant to the assessment of this appeal:

Under the heading of ***Infill, Corner and Backland Sites***, pg.72 of the plan states:

'The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be considered for this type of development.'

Objective PM44 states that it is an objective of the Planning Authority to:

'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 states that it is an objective of the Planning Authority to:

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

Under the heading of **Other Residential Development**, pg. 424 of the plan states:

'The development of underutilised infill and corner sites in existing residential areas is generally encouraged. However, it is recognised that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be encouraged for this type of development. Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. All new dwellings shall comply with Development Plan standards in relation to accommodation size, garden size and car parking. Where the proposed height is greater than that of the surrounding area a transitional element should be provided.'

Objective DMS39 states that it is an objective of the Planning Authority that:

'New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.'

Objective DMS40 states that it is an objective of the Planning Authority that:

'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 DMS87 (private open space) states that it is an objective of the Planning Authority to:

‘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 appeal site is not located within any European designated site. The following European sites are located immediately facing the appeal site on the opposite side of Strand Road:

- North Bull Island SPA (site code 004006)
- North Dublin Bay SAC (site code 000206)

5.3. **EIA Screening**

Having regard to the nature and limited scale of the development which is proposed to be connected to the public water supply and foul drainage network and which would not have a direct impact on any European site 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 following is a summary of the main issues raised in the third party grounds of appeal:

- That the reasons for refusal relevant to Ref. F19A/0640 have not been overcome in the current proposal. The changes proposed to the development to address these previous reasons for refusal are minor and do not sufficiently address the previous reasons for refusal. The previous reasons for refusal related to the following:
 - That the proposed development would substantially breach the established building line to the east along La Vista Avenue and by virtue of the height, overall mass and scale would be a visually obtrusive form of development on a prominent corner site. The development would be contrary to Objective DMS40 of the development plan.
 - That the angled sub division of the site that requires the provision of parking within the rear garden would result in a haphazard infill form of development.
 - That the proposed location of car parking to the rear would result in inadequate provision of car parking and would contravene Objective S87 which specifies that private open space shall be provided exclusive of car parking.
- That the approach of Fingal County sets an undesirable precedent for the planning process.
- That the changes to the eastern end of the design do not break up the visual bulk of the house as suggested by the applicant.
- That the development will still break the building line on La Vista Avenue, will not be adequately screened by the existing trees and will be visually incongruous when viewed from La Vista Avenue.

- That the changes to the car parking and open space proposed from the previous application are minor and inadequate.
- That the development is on a site with an address on Strand Road and should therefore access onto Strand Road.
- That the proposed access would impact negatively on traffic safety for La Vista Avenue traffic.
- That Fingal County Council have not considered the multiple observations relating to *'the provision of a new access to the property from La Vista Avenue serving an address on Strand Road.'*
- *'Multiple observations, including comments to the due diligence of this application, permission was agreed before observations would have been received, have not been considered.'*

6.2. Applicant Response

The following is a summary of the main issues raised in the response of the first party to the third party appeals:

- Regarding the contention that the previous grounds of refusal have not been addressed this is not agreed with. The applicant spent considerable amount of time consulting with the Planning Authority altering and refining the design in advance of submission.
- Regarding previous refusal reason No.1 relating to breach of the established building line and visual impact of the development, the entire area of the first floor of the previous design that projected to the north has been removed. The first floor is set back a further 2.35 metres from the northern boundary and the ground floor by an additional 600mm. The overall height, bulk and mass of the development has therefore been reduced, the open nature of the junction with Strand Road preserved and Objective DMS 40 complied with. 3D drawing No.12 indicates these points.

- That the trees at the northern end of the site form a complete visual break between the site and La Vista Avenue. These trees would be protected by Condition No.12 attached to the decision issued by the Planning Authority.
- That the proposed house has had a bedroom removed from the east side of the first floor compared with the previous design, thereby reducing the visual prominence and bulk significantly.
- That the proposed development is of a contemporary style and is in line with the development undertaken at No.3 la Vista Avenue (property of one of the third party appellants) and also the design approach opposite the site at No.1 La Vista Avenue.
- That the issues regarding parking and the haphazard infill development have been comprehensively addressed in the planning application and accompanying reports. The use of the west facing area of the front garden to serve the proposed house would result in a high quality private amenity space.
- That the applicant would not be against the vehicular entrance to the development being from Strand Road, but this would be subject to the agreement of the councils engineers.
- That the private amenity space to the west of the proposed house is 180 sq. metres and will provide high quality private amenity space that addresses the previous reason for Refusal No.3.
- That the approved plans provide for the setting back of the entirety of the western boundary of the site and the provision of a footpath along this section of Strand Road will address Reason for Refusal No.4 attached to the previous application by vastly improving sightlines at the junction and improving vehicular safety at what is currently a dangerous junction for both pedestrians and vehicular traffic.

6.3. Planning Authority Response

The following is a summary of the main issues raised in the response to the grounds of appeal received from the Planning Authority:

- That the development was assessed against the policies and objectives contained in the Fingal County Development Plan and existing government policy and guidance. All submissions were considered.
- That the planning authority was satisfied that the changes to the development proposed addressed the reasons for refusal in Ref. F19A/0640.
- That having reviewed the grounds of appeal, the Planning Authority remains of the opinion that subject to compliance with the conditions attached to the permission, the proposed development would not unduly detract from the character of the area or the adjoining visual and residential amenity.

6.4. Further Responses

Response received from Norbert and Margaret Bannon stating as follows:

That they support the grounds of appeal raised by Leonard Cawley regarding the issue that permission was agreed before observations had been submitted.

Specifically, it is noted that the applicants architect states in the letter with the application that '*approval in principle was e mailed to me on 7th July, 2020*'. It is not clear that any of the objections were taken into account by the deciding authority and this is clearly in breach of the rules of natural justice.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development, Legal Issues and Planning History on the Site,
- Design and Layout,
- Impact on Visual and Residential Amenity,

- Other Issues,
- Appropriate Assessment.

7.2. Principle of Development, Legal Issues and Planning History on the Site,

- 7.2.1. The appeal site is located on lands that are **zoned Objective RS** under the provisions of the *Fingal County Development Plan, 2017-2023* with a stated objective ‘*to provide for residential development and protect and improve residential amenity*’. In principle, the provision of an additional infill dwelling on lands zoned objective RS is considered to be acceptable subject to existing residential amenity not being significantly impacted.
- 7.2.2. In my opinion, the **principle of urban consolidation and infill development** such as the development the subject of this appeal is supported by the National Planning Framework (National Policy Objectives 35 and 68 and National Strategic Outcome 1). In addition, there are a number of sections and objectives contained in the Fingal County Development Plan that support the principle of the form of development proposed. Specifically, under the heading of Infill, *Corner and Backland Sites*, the plan states that the development of, inter alia corner and infill sites in existing residential areas is generally encouraged, and such development is promoted in Objective PM44 of the plan. Both this objective and the discussion at Page 424 of the plan which promotes the development of underutilised infill and corner sites in existing residential areas, recognise that there needs to be a balance between the protection of amenities, privacy and the established character of the area and new residential infill. Policy at national and local level is therefore considered to be supportive of the principle of the form of development proposed subject to the amenities of the area and surrounding properties not being excessively impacted. Issues of amenity are considered in detail in the sections below.
- 7.2.3. It is noted that the third party appellants raise concerns with regard to the **nature of the pre application consultations** undertaken and note that the comments of the agent for the first party appear to imply that agreement for the development had been obtained from the Planning Officer prior to the submission of any application. Concerns are expressed with regard to the transparency of the process and whether the principles of natural justice have been respected. On this issue I note the

comments of the Planning Officer in the second report on file dated 19th April 2021 where it is stated that the agent for the first party has taken the views of the Planning Officer out of context by stating at section 19 of the application form that '*approval in principle*' had been obtained from the planning Officer. I also note and agree with the comments of the Planning Officer that any comments made to the first party during pre-application consultations were on a without prejudice basis and are not binding on the decision of the planning authority. The application is now the subject of appeal to the Board who have not been party to any pre application consultations on the proposed development and any remaining concerns of the third parties with regard to the processing of the application by the Planning Authority and specifically the pre application consultations undertaken are considered to be an issue between the Planning Authority and the third party appellants.

- 7.2.4. I note that a significant element of the appeal submissions on file, and the observations made to the Planning Authority, relate to the fact that there was a ***previous refusal of permission for development*** on the site (Fingal Co Co Ref. F19A/0640) and that the third parties do not consider that the reasons for refusal cited by the Planning Authority in this case have been adequately addressed such as to justify a grant of permission. The assessment undertaken below will assess the proposed development including an assessment of the main issues on which Ref. F19A/0640 was refused permission by the Planning Authority. It should however be noted that this previous refusal of permission was not the subject of appeal to the Board and that the Board will undertake a de novo assessment of the current application as if it had been made to it in the first instance. The assessment of the Board will not therefore be restricted to an assessment of the changes in the proposal since the previous refusal of permission or the degree to which the decision of the Planning Authority on the current application is or is not consistent with its previous decision on Ref. F19A/0640.

7.3. Design and Layout

- 7.3.1. The design proposed is contemporary with the use of a flat roof profile and modern materials. In principle, I consider that the **design approach** proposed is acceptable, providing a contrast with the existing form and design of original properties in the vicinity, including that on the appeal site and to the east on La Vista Avenue. The design is in my opinion well considered and of a high architectural standard and I note that there are a number of existing and proposed infill properties located in the general environs of the site that have also used a contemporary design approach.
- 7.3.2. The use of contemporary design approaches to corner and infill sites is promoted in the Fingal Development Plan (specifically at page 72 under the heading of Infill, Corner and Backland Sites) and Objective PM45 states that it is an objective of the Planning Authority to *'promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area'*. In this regard, it is noted that the house located to the immediate south of the existing house on the appeal site is included on the Record of Protected Structures for County Fingal, (Ref. 926). The house on this site ('Cueta') comprises a modernist two storey flat roofed dwelling which is attributed to Michael Scott. In my opinion, the design of the proposed development is such that it would not be visually inconsistent with this structure and its location is such that there would be limited intervisibility between the two properties such that the setting and character of the protected structure would not in my opinion be negatively impacted by the current proposal. To the north of the appeal site, fronting Strand Road there is a terrace of two storey houses that is indicated on the Development Plan Zoning and Objectives map as being an ACA. The closest part of this ACA is located approximately 90 metres from the appeal site at the closest point and the would be separated by the new development on the opposite corner of the junction of Strand Road and La Vista Avenue which is currently under construction. Given the form and scale of the proposed development and the separation to the ACA I do not consider that the proposed development would have any significant impact on the character or setting of this ACA. Overall, therefore in terms of design and visual impact, I consider that the proposed development is consistent with the provisions of the development plan regarding infill development and would represent a high quality contemporary design that would be consistent with the character of the area.

- 7.3.3. With regard to **internal space and layout**, the proposed dwelling has a stated floor area of 118.4 sq. metres and is proposed to have three bedrooms. A review of the proposed layout indicates that the internal layout is consistent with the requirements of the development plan and with Quality Housing for Sustainable Communities and is in my opinion acceptable.
- 7.3.4. The provision of **private amenity space** is raised as a concern by the appellants, and it is noted that Reason for Refusal No. 3 attached to the Notification of Decision to Refuse Permission issued by the Planning Authority under Ref. F19A/0640 related to the location and layout of the proposed off street parking area and that the layout proposed would result in an under provision of private amenity space and the development being contrary to the provisions of Objective DMS87. The current proposal differs from that under Ref. F19A/0640 in that the area to the front (south) of the proposed new house is proposed to be separated from the rest of the site such that an area of enclosed private amenity space can be provided to the south of the house. The Proposed Site Layout Plan (Drg. No.P03) indicates an area of c.60 sq. metres proposed to the east of the house and c.180 sq. metres to the west. In terms of compliance with Objective DMS87, the proposed layout would result in an area significantly in excess of the 60 sq. metres minimum required for a three bedroom house. I note that all of the open space to be provided is not clearly '*to the rear of the building line*' as specified in Objective DMS87, however I consider that given the enclosed nature of the site at the corner of Strand Road and La Vista Avenue that the provision of private amenity space to the south of the building is an obvious solution that does not impact on the existing character and visual amenity of the site from Strand Road and La Vista Avenue. The area to the west is proposed to be separated from the site of the existing house on the site by a 1.7 metre high fence and hedge and is considered to be such that an adequate level of amenity for both properties would be retained. To the rear of the existing house, the proposed layout would result in the retention of an area of c.225 sq. metres inclusive of the garage and such that adequate private amenity space would be retained with the existing house.
- 7.3.5. The **layout of the proposed car parking area** was a concern in application Ref. F19A/0640, and while the car parking would not in my opinion now impact on the provision of an adequate amount of high quality private amenity space, the location

of the parking area is in close proximity to the existing mature hedge and trees located at the northern end of the site. As part of the request for further information and on foot of the comments of the Parks Department a detailed tree survey and arboricultural assessment was required to be provided. These assessments set out a methodology for the provision of the car parking area to be sited within the canopy of the existing trees in a manner that would not impact on the future health of the trees by means of loss of water or compaction of the ground. On the basis of the information presented as part of the further information response on file I am satisfied that the parking area can be provided in the location proposed without impacting negatively on the existing trees on site.

- 7.3.6. Reason for Refusal No.2 attached to the notification of decision on Ref. F19A/0640 stated that the proposed development involves the subdivision of the overall site such that parking is proposed to be provided in the rear garden and such that it would result in a ***haphazard form of infill development***. Having regard to the above assessment I do not consider that the proposed layout can be considered to constitute a haphazard approach to the development of the site. Specifically, the layout of the car parking is in my opinion appropriate relative to the overall layout of the site and the provision of private amenity space to the west of the house would result in an enclosed high quality area of private amenity space that would not impact negatively on the residential or visual amenities or character of the area.
- 7.3.7. Objective DMS39 states that it is an objective of the Planning Authority that new 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 and I consider that the proposed development meets these requirements. Objective DMS39 also requires that new infill development shall respect the height and massing of existing residential units and on this I note that the overall height of the proposed development would be lower than the eaves height of the existing house on the site. The proposed dwelling would be higher than the height of the existing dormer houses located to the east of the site on La Vista Avenue, however these houses would be separated from the proposed development by c.21 metres and also by the mature trees and hedgerow at the eastern end of the appeal site that significantly screens the appeal site from views from the east. Overall, it is my opinion that the proposed development would protect the amenity of the existing

house on the site and surrounding houses, would be consistent with the development plan objective relating to infill development (Objective DMS39) and that it cannot reasonably be considered that the proposed development would constitute a haphazard form of development.

7.4. Impact on Visual and Residential Amenity

- 7.4.1. A significant concern raised by the third party appellants relates to the siting of the proposed development and specifically the degree to which it would break the **established building line** formed by the existing houses on the southern side of La Vista Avenue. This issue formed the basis of Reason for Refusal No.1 cited by the Planning Authority in its decision on Ref. F19A/0640 where it was determined that the development would represent a **visually obtrusive form of development** on this prominent site and having a negative impact on the existing open nature of the junction with Strand Road and La Vista Avenue. I consider that there are a number of issues that should be noted with regard to the basis of this reason for refusal and the potential impact of the current proposal on the visual amenities of the area and specifically on La Vista Avenue.
- 7.4.2. Firstly, as noted above, the separation distance between rear (east facing) elevation of the proposed house and the closest house to the east on La Vista Avenue is 21 metres. The site is separated from properties to the east and from views from La Vista Avenue by mature trees that are such that, when viewed from La Vista Avenue, the roof of the existing house on the appeal site is not clearly visible. The proposed development would break the building line formed by houses on the southern side of La Vista Avenue, but it is my opinion that the separation and screening referenced above is such that the proposed development would not form a visually obtrusive or overly prominent feature when viewed from La Vista Avenue.
- 7.4.3. In terms of addressing the previous reason for refusal under Ref. F19A/0640, it is noted that a comparison of the current and previously proposed layouts indicate that the scale, design, and layout of the proposed dwelling have been significantly altered and reduced from that previously proposed. Specifically, the house has been reduced from four bedrooms to three, the northern elevation significantly amended and the degree to which the two storey element would project beyond the building

line formed by the houses on La Vista Avenue reduced by c. 2.35 metres and by an additional 600mm at ground floor level. For reference, a comparison of the previous and current projection at first floor level to the northern side of the building is provided on Drg. No. P05 – Proposed First Floor Plan. These changes are such that as discussed above, I do not consider that the proposed development would have an unacceptable or visually obtrusive impact when viewed from La Vista Avenue.

7.4.4. With regard to the potential impact on the corner of Strand Road and La Vista Avenue, I note that the existing enclosed character of the junction with the boundary walls is proposed to remain, notwithstanding the proposed setting back of the western boundary wall as is discussed in more detail in sections of this assessment below. I do not therefore consider that the proposed development would have a negative visual impact on this junction or on what was described in reason for refusal No.1 attached by the Planning Authority to Ref. F19A/0640 as the ‘open nature’ of this junction. Having regard to the comments set out above with regard to design, set back from site boundaries, natural screening, particularly to the eastern boundary, and to the acceptability of a contemporary design in this location which would be visually consistent with other developments in the vicinity including the infill house currently being constructed to the rear of No.1 La Vista Avenue to the north of the appeal site, I consider that the proposed development would be consistent with the requirements of Objective DMS40 of the development plan as it relates to the development of corner sites.

7.4.5. In terms of **overlooking and potential overshadowing**, I consider that the design and scale of the proposed development is such that no significant issues of overlooking or overshadowing of third party properties are likely to arise. As noted above, the proposed development would be separated by c.21 metres from the closest property to the east and by a similar distance from the closest property to the north at No.1 La Vista Avenue. The location of the proposed development to the north of the existing house on the site is such that I do not consider it likely that there would be any significant impact on the availability of daylight to the existing house notwithstanding the degree to which the new house would project forward of part of the front building line of the existing dwelling.

7.5. Other Issues,

- 7.5.1. With regard to site drainage, the development is proposed to be connected to the **public water supply and drainage** network. As part of the request for further information, the first party was requested to make an application to Irish Water for a pre-connection enquiry, and this has been complied with. The first party was also requested to indicate that no part of the proposed development would be located within 3 metres of the Irish Water watermain and the response submitted indicates that the relevant water main is located c.1.2 metres from the northern site boundary. On the basis of the information available and the submitted layout the proposed development would therefore appear likely to be more than 3 metres from this main. In the event of a grant of permission it is recommended that a condition similar to Condition No. 9 attached by the Planning Authority would be included requiring that prior to the commencement of development, the developer submit a site plan that shows the required minimum 3 metre clearance between the house and the Irish Water water main. In the event of a grant of permission it is also recommended that a condition requiring that a connection agreement with Irish Water be entered into prior to the commencement of development.
- 7.5.2. The appeal site is located within less than 10 metres of the coast and as part of the request for further information the applicant was required to submit a **flood risk assessment**. This assessment notes that the form of development proposed (residential) is 'highly vulnerable' as per the categorisation set out in the Flood Risk Management Guidelines but that the risk of tidal flooding is low as per the Irish Coastal Protection Strategy Study III – North East Coast Flood Extent Map and the RPS Strategic Flood Risk Assessment Mapping. This mapping is not submitted with the assessment. It is contended that on the basis of the above assessments the identified 1 in 1,000 year flood level is c.3.25 metres AOD at the appeal site and that the FFL proposed in the development is 4.0 metres AOD and therefore above this potential flood zone. I note that the available CRRAMS Flood Maps and OPW Coastal Flood Mapping do indicate the general environs of the appeal site as being at some coastal flood risk, however the more detailed flood height information presented in the submitted flood risk assessment indicates that the site would not be at risk of tidal flooding with a risk of less than 1 in 1000. No clear fluvial or overland

flood risk is identified in the submitted assessment and on the basis of the information presented the site does not require a justification test to be undertaken.

- 7.5.3. The provision of **access to the site from La Vista Avenue** is objected to by the third party appellants on the basis that it would exacerbate existing congestion on the road and that the existing access to the site is from Strand Road. The fact that the existing access to the house on the site is from Strand Road does not in my opinion mean that this is the appropriate access for the proposed development, and the proposed access point at the north east corner of the site is in my opinion appropriate. Visibility at this location is adequate and would be significantly preferable to the creation of a new access onto Strand Road that would be in very close proximity to the junction. I note the statement of the first party that they are open to the idea of relocating the access to Strand Road however any such change would in my opinion be material and require revised public notices.
- 7.5.4. The existing junction between Strand Road and La Vista Avenue is hazardous for pedestrians due to the absence of a footpath at this section of Strand Road and also for traffic exiting La Vista Avenue where the existing western boundary wall of the site acts to restrict visibility to the south. As part of the proposed development, the first party proposes the setting back of the western site boundary to facilitate the provision of a 2 metre wide footpath in this location. The impact of these works would in my opinion be significantly positive as it would both significantly improve sightlines to the south for traffic exiting La Vista Avenue while also significantly improving pedestrian safety at the junction. I therefore consider that these works would address the basis of reason for refusal No.4 attached to Ref. F19A/0640 which stated that the proposed development would, by virtue of inadequate sight lines at the junction of Strand Road and La Vista Avenue, result in a traffic hazard.
- 7.5.5. In the event of a grant of permission, it is recommended that the implementation of the proposed boundary and footpath works would be required to be agreed with the Planning Authority.

7.6. **Appropriate Assessment.**

- 7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 **Reasons and Considerations**

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 24th day of March 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 planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The depth of the first floor balcony to the west facing elevation shall be limited to 2.0 metres.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit a Site Plan to a scale of 1:200 showing the location of the existing Irish Water water main to the north of the site and the maintenance of a minimum separation of 3 metres between this main and the permitted development.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. 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.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

7. Prior to the commencement of development, details of the layout of the proposed footpath to the west of the site and the realigned boundary wall, to include details of materials and height of the wall, shall be submitted for the written agreement of the Planning Authority. All works connected with the provision of the new footpath and reconstruction of the boundary wall at this location shall be undertaken at the expense of the developer.

Reason: In the interests of traffic and pedestrian safety and residential amenity.

8. All bathroom windows shall be fitted and thereafter permanently maintained with obscure glazing.

Reason: In the interests of residential amenity.

9. The developer shall pay to the planning authority a financial contribution of €9,860 (none thousand eight hundred and sixty euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the

developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

Stephen Kay
Planning Inspector

3rd August 2021