



An
Bord
Pleanála

Inspector's Report

ABP-310489-21

Development	Demolition of extension to the side and construction of single storey extension to front and construction of a single storey detached dwelling to east.
Location	18A, Parnell Cottages, Malahide, Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0189
Applicant(s)	Yvonne O'Reilly.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Observer(s)	Susan and Ciaran Walsh, Tina Fitzgerald, Eugene and Mary MacCarrick, Simon and Peta Curthoys, Louise Farrell and Anthony Furlong.

Date of Site Inspection

20th October 2021.

Inspector

Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.04ha and is located at Parnell Cottages, east of Malahide Castle grounds and the railway line. It is located in one of the older established residential areas in Malahide and forms part of an Architectural Conservation Area.
- 1.2. Parnell Cottages consists of a narrow cul-de-sac road populated by cottages on both sides of the road and with backland houses on a number of the plots on the north side of the road. The road is narrow, with footpaths on both sides and there was evidence of congestion, due to on-street parking. The houses on the road are characterised by a simple design and form.
- 1.3. The subject site is situated on the south side of the road and at its east end. It occupies a triangular plot and was itself a side garden development, from a previously larger plot. The site is enclosed by a block wall to the rear and by a timber post and rail fence to the front.

2.0 Proposed Development

- 2.1. The development entailed within the public notices comprised the following: -
 - Part-demolition of existing extension to side of existing dwelling,
 - Construction of single storey extension to front and rear of existing dwelling,
 - Construction of a single storey, detached dwelling to east side of existing dwelling,
 - Construction of part-2m and part-0.9m high front boundary wall along northern boundary,
 - Associated new vehicular access points, pillars and gates onto Parnell Cottages
 - Associated site works, including SuDS measures.
- 2.2. As part of the appeal the applicant has provided a revised design option, which incorporates a flat roof in place of the originally proposed pitched roof arrangement. The application states that they are willing to incorporate this revision, should the Board consider it necessary.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority refused permission on 27th May 2021, for 5 reasons as follows: -

- 1. The proposed development is located in a side garden within an Architectural Conservation Area and would by way of the proposed, boundary treatments and an ad-hoc development approach contravene Objectives PM44, Objective DMS39 and Objective DMS40 of the Fingal Development Plan 2017-2023 relating to infill development. In addition through this incremental development approach and its impact on the existing character of gardens associated with houses in Parnell Cottages, the development would negatively impact on the residential amenity of the properties in the vicinity and be at variance with the RS zoning of the lands.*
- 2. The proposal for an infill house is not in accordance with the statement of character of the ACA and is considered to be haphazard piecemeal development on a site. Inappropriate boundary treatments and building line would contravene Objective DMS157 regarding development within ACAs.*
- 3. The proposed dwelling fails to provide for an adequate level of residential amenity, in accordance with objective DMS87 of the Fingal Development Plan 2017-2023 and such would not be in accordance with the proper planning and sustainable development of the area.*
- 4. The proposed dwelling is to be located along the southern boundary of the subject site which is shared with the private amenity space associated with dwellings located along Back Road, Malahide, Co. Dublin. Having regard to the blank façade of the rear elevation and the ridge level of the dwelling which sits 3.417m above the existing boundary wall it is considered that the proposal would significant negatively impact upon the current level of residential amenities enjoyed at this location as a result of overbearance and as such the proposed development would not be in accordance with the proper planning and sustainable development of the area.*

5. *The proposed development would set an undesirable precedent for similar type of incremental infill development, would give rise to ad-hoc incremental traffic concerns on the narrow road serving Parnell Cottages and as a consequence may lead to a conflict between pedestrian and road users thereby being contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. A Planning Report dated 21st May 2021 has been provided, which reflects the Planning Authority's decision to refuse permission. The report stated that the development was acceptable under the zoning, subject to compliance with policies and objectives of the development plan. The report outlined that significant concerns has been expressed at the pre-application stage, in view of the constrained nature of the site, and it was noted that the proposal had not changed in the intervening period. The report expressed the view that the development was not infill in nature, as the plot had itself previously benefitted from an infill dwelling and, in view of this, the proposal was considered to constitute overdevelopment of the site. The development was considered to be contrary to objectives DMS39 and DMS40 of the development plan. Concerns were also expressed regarding the proposed front boundary treatment, which would enclose the site and which would be incongruous with the streetscape that forms part of an ACA. Reference was also made to decisions by both the Planning Authority and the Board, to refuse permission, for similar development at 9A Parnell Cottages. The house itself was considered to accord with the requirements of the development plan in respect of internal size and layout, whereas the garden area was considered inappropriate as it was proposed to the side of the house. Regarding impacts on residential amenity, the house was considered to be overbearing upon the private amenity space associated with 28 and 29 Parnell Cottages. Regarding access, the report noted that the applicant had not demonstrated that 24m sightlines could be provided and additional concerns were expressed regarding the incremental effect of additional traffic on the road. The report recommended that permission be refused for 5 No. reasons which are consistent with the Planning Authority's decision.

3.2.2. Other Technical Reports

A **Water Services** report dated 15th April 2021 has been provided, which outlined no objection to the development subject to a number of standard planning conditions.

An undated **Transportation** report has been provided, which requested that a sightline drawing should be provided, indicating 24m x 2m sightlines in both directions.

A **Conservation Officer** report dated 4th May 2021 has been provided, which advised that the site is within the ACA for The Bawn, St. Sylvester's Cottages and Parnell Cottages. The report advised that the existing house on the site is not one of the semi-detached, early 20th Century cottages that contribute to the character of the ACA and that it is of no particular architectural merit. Concerns were expressed regarding a number of aspects of the design and finish of the house and it was questioned whether the plot could accommodate an additional dwelling. The report requested that, should permission be granted, the quality of the design and finishes should be improved, to be more appropriate for development within an ACA.

3.3. **Prescribed Bodies**

3.3.1. Irish Water made a submission dated 30th April 2021 requesting that a condition be attached requiring the applicant to enter into a connection agreement prior to the commencement of development.

3.4. **Third Party Observations**

3.4.1. A number of third party submissions were received, the issues raised within which can be summarised as follows: -

- Concerns were expressed that the development contravenes the requirements of the ACA, in terms of its size and character and location forward of the front building line.
- Concerns were expressed that the development constituted an infill development on an existing infill site.
- Concerns were expressed that the site is incapable of accommodating an additional house.

- Concerns were expressed regarding the impact of the development on the residential amenity of neighbouring occupiers
- Concerns were expressed that a grant of permission would set a precedent for similar developments along the road.
- Concerns were expressed that the application gave no indication of how narrow the road is or how congested it is. Photographs provided with the application were considered out of date.
- Concerns were expressed that parking patterns along the road restrict access and pose a risk to public safety. Parking proposals were considered likely to extend such issues.
- Concerns were expressed that the proposed 2m front boundary wall was out of character.
- Concerns were expressed regarding the applicant's ability to access the site by car.
- Concerns were expressed that the development may give rise to flooding on adjacent lands.
- Concerns were expressed that some enabling works had been undertaken, prior to a grant of permission
- Existing services infrastructure were considered to be incapable of accommodating additional development.
- Comparison to a development at 1 Parnell Cottages was considered inappropriate.
- The adequacy of the site notices was questioned.

4.0 **Planning History**

F15B/0196 – Permission granted on 16th November 2015 for a single storey side extension.

Relevant Nearby Planning History

F19A/0444 – *9B Parnell Cottages*: (ABP Ref. ABP-306082-19) Permission refused on 21st April 2020 for an infill house to the rear of 9 Parnell Cottages and to the front and south of 9A Parnell Cottages. Permission was refused for 2 reasons as follows:

1. Having regard to the established pattern of development in the area, the residential and visual character of the designed Architectural Conservation Area (ACA) and the backland nature of the subject site, located centrally between two existing dwellings, it is considered that the proposal in this location does not represent a sensitive infill and redevelopment opportunity. The proposed development would set an undesirable precedent for disorderly, piecemeal and haphazard development and would compromise the integrity and would not enhance the character of the ACA. The proposed development would be contrary to Objectives DMS157 and CH32 and DMS39 of the Fingal Development Plan 2017-2023 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that insufficient information has been submitted in relation to surface and foul water drainage systems to ensure that the proposed development would be in accordance with current standards for such works and would not be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

F18A/0669 – *9B Parnell Cottages*: Permission refused on 25th January 2019 for an infill house to the rear of 9 Parnell Cottages and to the front and south of 9A Parnell Cottages.

F15A/0604 - *Site at corner of Back Road and The Hill*: Permission granted on 16th May 2016 for a 3-bed house and for part-demolition of and construction of new site boundaries.

5.0 Policy Context

5.1. Ministerial Guidelines

Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.1.1. Section 3.10 relates to the assessment of proposals within architectural conservation areas (ACA) and it advises that *‘when it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance...Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. The scale of new structures should be appropriate to the general scale of the area and not its biggest buildings.’*

5.2. National Planning Framework

5.2.1. National Policy Objective 4: ‘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.’

5.2.2. National Policy Objective 6: ‘Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.’

5.2.3. National Policy Objective 17: ‘Enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive use now and for future generations.’

5.2.4. National Policy Objective 60: ‘Conserve and enhance the rich qualities of natural and cultural heritage of Ireland in a manner appropriate to their significance.’

5.3. Development Plan

5.3.1. The site is zoned ‘RS’ under the Fingal County Development Plan 2017-2023, with an objective to *“Provide for residential development and protect and improve residential amenity.”*

5.3.2. The site is within an Architectural Conservation Area, known as The Bawn, Parnell Cottages & St. Sylvesters Villas. Table 12.11 provides direction for new developments in ACA locations and of relevance, it states that “*Development proposals for new build need to follow a sensitive design approach that respects the established character of the ACA in terms of the scale, massing, bulk, plot sizes, proportions and materials of the adjoining buildings to the development site.*”

5.3.3. The following objectives are relevant to the appeal: -

CH32: Avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area.

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.

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

PM46: Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.

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.

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.

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.

DMS157: Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.

DMS158: All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.

Section 12.4 provides development management criteria to control residential development.

5.4. The Bawn, St. Sylvester's Villas and Parnell Cottages, Malahide Architectural Conservation Area - Statement of Character

5.4.1. The Bawn and St. Sylvester's ACA encompasses the area bounded by the railway line and Malahide Castle Demesne on the west, The Hill to the east and housing developments to the north and south, and is entirely private housing.

5.4.2. Regarding Parnell Cottages, the Statement outlines that they appear in early 20th Century Ordnance Survey maps. The *Built Fabric* section (Page 11) outlines that there are considered to be 3 house-types in the area, which are primarily modest bungalows and which are characterised by their uniformity and architectural detailing.

5.4.3. Houses at Parnell Cottages originally had pitched roofs with timber fascias, with a mix of clay and slate roofs and brick and render chimneystacks but some roofs have been replaced with artificial slate and in some cases, chimneystacks have been rendered. Walls originally consisted of exposed course limestone, with limestone or redbrick quoins and window and door surrounds. Several houses were noted to have been subsequently rendered.

5.5. Natural Heritage Designations

5.5.1. The subject site is not located within or adjacent to any designated European Site.

5.6. EIA Screening

5.6.1. The subject development is for a single house and part-demolition and replacement of a domestic extension to an existing house, on a site of 0.04ha. It falls well below both of the applicable thresholds for mandatory EIA, as set out at Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended).

5.6.2. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which is on serviced land, it is considered that 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

6.1.1. Separate letters have been submitted by the applicants (2) and project architect. The combined grounds of appeal can be summarised as follows: -

- Refusal reason No. 1
 - Objective PM44 encourages the development of underutilised infill, corner and backland sites.
 - Regarding Objectives DMS39 and DMS40, the development respects the established residential pattern but the applicants are willing to modify the proposal by way of condition if required.
 - The proposed development is the only feasible option available to the applicants, in respect of home ownership in the area. It is also not feasible to extend the existing house.

- The proposed development provides the applicants with long term flexibility, to adapt to changing individual needs.
- Refusal reason No. 2
 - The applicants have taken care to respect building finishes and established building lines.
 - The proposed house will be built on the site of an existing building, replacing one building with another of the same height, but longer.
- Refusal reason No. 3
 - The proposal complies with Objective DMS87. The proposed house will have a private garden of 77sqm, not including the small rear courtyard or front parking area. The private open space is a minimum of 5.7m wide and 17.5m long and can be accessed from the kitchen, dining room and living area.
 - Reference is made to a similar development in Dublin City, Reg. Ref. 2316/16, which was granted permission by the Board.
- Refusal reason No. 4
 - The Planning Authority's concerns are acknowledged. It is possible to amend the design to provide a flat roof that would significantly reduce the impact of the blank façade. An example of a flat roof design is provided and the applicant is willing to adopt changes, should the Board consider them necessary.
 - The applicants consider adequate steps have been taken to mitigate adverse impacts on neighbouring occupiers, but are willing to incorporate changes, should the Board consider them necessary.
- Refusal reason No. 5
 - The applicant currently parks within the subject site and will continue to do so. The situation will remain, should permission be granted.

6.2. Planning Authority Response

6.2.1. A submission was received on 1st July 2021, the contents of which can be summarised as follows: -

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023 and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objective as well as the impact on adjoining neighbours and the character of the area.
- The Board is requested to be cognisant of the planning history pertaining to the area, with particular reference to ABP-306082-19.
- The site has benefitted from an infill dwelling to the site, being No. 18A Parnell Cottages.
- The development is piecemeal, ad-hoc development and would contravene objectives DMS39, DMS40 and would under the RS zoning objective.
- The Board is requested to uphold its decision to refuse permission.
- Should permission be granted, the Board is requested to make provision for a financial contribution in accordance with the S48 development contribution scheme.

6.3. Observations

6.3.1. Observations have been received from Susan and Ciaran Walsh, Tina Fitzgerald, Eugene and Mary MacCarrick, Simon and Peta Curthoys and Louise Farrell and Anthony Furlong. Each of the submissions is summarised below: -

Submission by Susan and Ciaran Walsh

- Refusal reason No. 1
 - The side garden is not a suitable size for this type of development and the proposed house is not a long-term living option.
 - The proposed house should have been retained in line with the existing house.
 - The proposed front boundary wall will have a lasting negative impact on the area.
- Refusal reason No. 2

- The development will require neighbours to develop privacy solutions, which will diminish the aesthetics of the road.
- Refusal reason No. 3
 - A new wall with a proposed height of 2m is not in keeping with the existing character of the road.
 - Parking proposals within the site are inadequate and will lead to further disruption to access on the road, due to the requirement for on-street parking.
- Refusal reason No. 4
 - Whilst the incorporation of a flat roof will address overbearance for the rear-adjointing residents, it is out of character with the bungalow style character along the road.
- Refusal reason No. 5
 - The development will set a precedent for other sites in the area.
 - Parking proposals on the site are inadequate and will lead contribute to issues on the road which is already overwhelmed by parked cars.
 - The proposal is not a long-term housing solution.
- A copy of the observer's submission to the Planning Authority has been provided.

Submission by Tina Fitzgerald

- Refusal reason No. 1
 - The side garden is not a suitable size for this type of development and the proposed house is not a long-term living option.
 - The proposed front boundary wall will have a lasting negative impact on the area.
 - The proposed house should have been retained in line with the existing house.
 - The development does not have any consideration for the disruption of views that would arise for the observer.
- Refusal reason No. 2

- The development will require neighbours to develop privacy solutions, which will diminish the aesthetics of the road.
- Refusal reason No. 3
 - A new wall with a proposed height of 2m is not in keeping with the existing character of the road.
 - Parking proposals within the site are inadequate and will lead to further disruption to access on the road, due to the requirement for on-street parking.
 - The observer will be impacted by the proposed driveway locations and the consequences of the parking strategy.
- Refusal reason No. 4
 - Whilst the incorporation of a flat roof will address overbearance for the rear-adjoining residents, it is out of character with the bungalow style character along the road.
 - The observer will be affected by the proposed roof design, as their home faces directly towards it.
- Refusal reason No. 5
 - The development will set a precedent for other sites in the area.
 - Parking proposals on the site are inadequate and will lead contribute to issues on the road which is already overwhelmed by parked cars.
- A copy of the observer's submission to the Planning Authority has been provided.

Observation by Eugene and Mary MacCarrick

- The development will set a precedent for other sites in the area and will lead to further congestion on the road. The appeal gives no indication of how narrow the road is and it does not reflect the level of congestion.
- References to examples of other, similar types of development are considered to be irrelevant.
- The pattern of development in the area has been that residents were allowed to build on backland plots, but as houses have been sold over time, parking has

become a problem and the street is now used for parking. This arrangement makes access difficult and poses public safety risks.

Observation by Simon and Peta Curthoys

- The site is not an infill site as the site of 18A Parnell Cottages was itself an infill site.
- The proposal is out of character with the architecture of the ACA, in particular the proposed 2m boundary wall.
- On-street parking is a problem in the area, with reference to access for service vehicles.
- References to a development granted under Reg. Ref. 2316/16 are considered irrelevant as the site contexts are different.
- The proposed amended roof design may improve the impact of the development from the south, but makes little difference to the view from the north.

Submission by Louise Farrell and Anthony Furlong

- The appeal documents do not address the observer's concerns, which were outlined in their submission on the application.
- The development contravenes the ACA for a number of reasons: -
 - There is no other original site at Parnell Cottages that contains 3 houses
 - The new vehicular access is out of character for Parnell Cottages as no other property has 3 access points.
 - The proposed 2m boundary wall is out character, where other houses have a 900mm high front boundary.
- The development will set a precedent for other sites in the area.
- The proposed access will reduce parking availability along the road.
- The need for separate accesses and boundary treatments is questioned.
- The proposed 2m front boundary wall will impede visibility for motorists on the road.
- The proposed flat roof design is out of character.

- A copy of the observer's submission to the Planning Authority has been provided.

6.4. Further Responses

6.4.1. None received.

7.0 Assessment

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

- Principle of development;
- Material Contravention;
- Design, scale and impact on the architectural conservation area;
- Residential amenity;
- Access and road safety;
- Drainage; and
- Appropriate Assessment.

7.2. Principle of development

7.2.1. The subject site is located in an established residential neighbourhood and is subject to the 'RS' zoning objective, with an objective to "*Provide for residential development and protect and improve residential amenity.*" The accompanying vision for this zoning seeks to "*Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*"

7.2.2. The proposal is for a house within an existing side garden, which is supported in appropriate circumstances by development plan objectives PM44 and DMS40, and for an extension of the existing dwelling.

7.2.3. I am satisfied that the proposal is consistent with the RS zoning objective, subject to consideration of compliance with development plan policies and objectives, as set out in subsequent sections.

7.3. Material Contravention

7.3.1. Refusal reason No. 1 of the Planning Authority's decision stated that the proposed development would contravene Objectives PM44, Objective DMS39 and Objective DMS40 of the Fingal Development Plan 2017-2023 relating to infill development.

7.3.2. Having considered the wording and intent of each of the objectives, I am of the view that they are not so specific as to be demonstrably contravened and, therefore, I do not consider that the development is in material contravention of the development plan. I am therefore satisfied that the provisions of Section 37(2) of the Act are not applicable in this instance.

7.4. **Design, Scale and Impact on the Architectural Conservation Area**

Proposed House

7.4.1. The Planning Authority's decision cites a number of concerns in relation to the design and scale of the development and its impact on the ACA: -

- Refusal reason No. 1 stated that the development would, by way of the proposed boundary treatments and ad-hoc development approach, contravene objectives PM44, DMS39 and DMS40 of the development plan.
- Refusal reason No. 2 stated that the proposal is not in accordance with the statement of character of the ACA and is considered haphazard, piecemeal development and that inappropriate boundary treatments and building line would contravene Objective DMS157
- Refusal reason No. 5 stated that the development would set an undesirable precedent for similar incremental infill development.

7.4.2. The applicant states that the development respects the established residential pattern but that the applicants are willing to modify the proposal by way of condition if required. They further state that the development is their only feasible option available, in respect of home ownership in the area. I note in this respect that the applicants have provided a revised design option, for the consideration of the Board, which incorporates a flat roof of reduced height, rather than a pitched roof.

7.4.3. Regarding design and siting, the applicants state that care has been taken to respect building finishes and established building lines.

- 7.4.4. Each of the observers expresses concern regarding the impact of the development on the character of the ACA, with respect to the proposed design and siting
- 7.4.5. Parnell Cottages is characterised by bungalow houses of simple design and form. Houses on the north side of the road were originally set on large plots but, over the years, backland development has been taken place on a number of these plots. There are a mix of plot sizes and shapes on the south side of the road and the subject site was itself an infill development.
- 7.4.6. The subject site is constrained by its triangular shape. The proposed house layout follows the shape of the site, taking a triangular shape which runs parallel to the rear site boundary and also runs parallel to the front plane of the main house, which is itself proposed to be extended to the front. The applicant has also evidently attempted to replicate the simple design and form of houses on the street, across the front (north) elevation, with the contiguous elevation drawing indicating that the proposed eaves and ridge heights would match those of the main dwelling. Noticeable variations from the established character of the area are the incorporation of a projecting bay element on the front elevation and an angled, monopitch roof section at the east end of the house.
- 7.4.7. Objectives PM44 and DMS40, whilst supportive of the development of infill and corner plots, require that, amongst other things, the character of the area and the amenities of adjacent residential occupiers should be protected by such developments. In this instance, I am concerned that the proposed development, which is a side garden development on an existing infill plot, is overdevelopment of the site.
- 7.4.8. The house is located immediately adjacent to the rear site boundary where, by reason of its height and proximity to adjacent housing, it will have an overbearing impact on south-adjointing occupiers, and it also projects beyond the front plane of the existing house, in front of the building line. The development also incorporates a 2m boundary wall along the north site boundary that is shown to wrap around the private garden, which would be out of character with the pattern of development along the street and which would, in my view, be an inappropriate and incongruent addition to the street. This boundary wall is required to provide privacy to the private garden area, which is to the side and front of the house.

7.4.9. The angled monopitch roof section at the east end of the house would also be a noticeable and incongruent addition.

7.4.10. I also consider the proposed revised flat roof design option provided as part of the appeal to be inappropriate design response to the concerns articulated by the Planning Authority and would result in a development which would jar.

7.4.11. For the reasons outlined, I conclude that the proposed house fails to accord with objective DMS40 and Table 12.11 of the development plan and a refusal of permission is recommended.

Proposed Extension

7.4.12. The existing house would be amended by part-demolition of an existing extension at its east end and the construction of a new single storey extension in its place, which projects from both the front and rear of the house. The proposed front extension would have a pitched roof, set below the ridge level of the main part of the house where the rear extension would have a flat roof, projecting slightly above the eaves of the main part of the house.

7.4.13. The effect of the proposed extension is to reduce the house's length, in order to accommodate the proposed additional house.

7.4.14. The Planning Authority's Conservation report advised that the existing house is not one of the early 20th Century cottages that contribute to the character of the ACA and also advised that the house is of no particular architectural merit. The proposed front extension would have similar proportions to an existing front conservatory extension further to the west, at 13 Parnell Cottages. I also noted on my visit to the site that there are a number of front porch extensions in evidence on the street. It will be a noticeable addition to the street and will have the effect of extending the building line on the south side of the road, but, taking a balanced view, it will not have an unacceptable impact on the character of the street, in view of these existing conservatory and porch extensions.

7.4.15. The proposed rear extension will not have any unacceptable overshadowing or overbearing impacts for rear-adjoining properties and is acceptable.

7.5. Residential Amenity

Proposed House

- 7.5.1. Table 12.1 of the development outlines internal standards for new houses, including for 1-bed houses. The application documents state that the house is acceptable in view of all assessment criteria. Having considered the proposed floor plan drawing, I am satisfied that the house is adequately sized internally, in accordance with the requirements of Table 12.1.
- 7.5.2. Refusal reason No. 3 stated that the development fails to provide for an adequate level of residential amenity, in accordance with objective DMS87, which requires a minimum of 60sqm private open space be provided, behind the front building line of the house.
- 7.5.3. The applicant states that a private garden of 77sqm would be provided but it would be provided primarily to the front of the house. The proposed boundary treatments would ensure privacy for the applicant, but I have previously expressed concerns regarding the visual impact of the 2m enclosing wall which is required in order to provide privacy. In my view the enclosing wall is an unacceptable feature of the development and, in its absence, the garden area will experience reduced privacy.

Existing House

- 7.5.4. The site layout drawing indicates that a rear garden of 63sqm would be retained, which is slightly below the minimum requirement of 65sqm for a house with 3 bedrooms, and an additional front garden. Notwithstanding the minor non-compliance in respect of the rear garden, I consider the retained rear garden would be adequate to serve the needs of the main dwelling, should permission be granted.

Adjacent housing

- 7.5.5. The proposed house is set adjacent to the rear site boundary and the contiguous elevation drawing indicates the eaves would overhang the shared boundary. In view of the single storey height of the house, no significant overlooking or overshadowing issues arise for neighbouring properties.
- 7.5.6. Refusal reason No. 4 stated that, by reason of the blank façade of the rear elevation and the proposed ridge level, the development would negatively impact residential amenities at this location with reference to overbearance. I am inclined to agree with the Planning Authority, that the house would have an overbearing relationship to south-adjoining housing, in view of the tall and blank nature of the rear elevation,

which extends up to the 5.4m ridge and which is set immediately adjacent to the shared site boundary.

7.6. Access and road safety

- 7.6.1. The proposed development includes relocation of the existing access and the provision of a new access, for the proposed house. Both accesses measure c.2.8m wide and provide for parking in the front garden area.
- 7.6.2. The observers each express concerns in relation to the level of congestion along the road, which arises from car parking on the pavement and concerns have also been expressed that service and emergency vehicles may not be able to access the road.
- 7.6.3. The road has reduced width from a point to the north of the proposed site and incorporates pedestrian pavements on both side. Whilst I noticed evidence of congestion on the street, due to on-street parking, I am satisfied that that adequate provision has been made for parking within the site for a development of this scale and the development will not contribute to or cause any road safety or congestion issues.
- 7.6.4. I note that the Planning Authority's Transportation department requested that the applicant should demonstrate that sightlines of 24m x 2m are achievable in both directions from the accesses. Subject to the incorporation of appropriately designed front boundary arrangements, I am satisfied that sightlines can be provided, in accordance with the Planning Authority's requirements. Should the Board decide to grant permission, I would recommend a condition be attached requiring the layout of both accesses to be agreed with the Planning Authority prior to the commencement of development.

7.7. Drainage

Surface water

- 7.7.1. The application documents state that surface water from both sites will drain to rainwater butt with a storage capacity of 800L and that the overflow will be connected to a rain garden storage system, which will be specified at a later date. The applicant states that a soakaway can be provided in accordance with BRE365 guidance, should the proposed approach be unacceptable.

7.7.2. Details of the drainage characteristics of the site have not been provided but I note that the Water Services department of the Planning Authority did not object to surface water drainage proposals, subject to submission and agreement of design proposals and that site specific infiltration rates and rainfall figures should be used to inform the proposals. Should the Board decide to grant permission, I recommend that a condition be attached requiring the applicant to submit and agree surface water drainage proposals prior to the commencement of development.

Foul water

7.7.3. Foul water for the proposed house is proposed to drain to the existing network, via connection within the parent site. I note that Irish Water did not object to the development.

7.8. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

7.8.2. A screening report for Appropriate Assessment was not submitted with this application/ appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment- Test of likely significant effects

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

7.8.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

7.8.5. The development is summarised at Section 2 of this Report. In summary, permission is sought for part-demolition of an existing side extension and construction of single storey front and rear extensions, together with construction of a single storey, detached house within the side garden. The development also includes construction of part-2m and part-0.9m high front boundary wall along northern boundary, new vehicular accesses onto Parnell Cottages and associated site works, including SuDS measures. The site has a stated area of 0.04ha and it consists of a residential plot, in an established residential neighbourhood. The site is served by the public water and foul water networks. Foul drainage is proposed to drain to the public network and surface water is proposed to drain to rain gardens/soakaways.

Submissions and Observations

7.8.6. The submissions from the applicant and the Planning Authority are summarised as Section 6 of this Report.

European Sites

7.8.7. The development site is not located in or immediately adjacent to a European site. The closest European sites are Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA (Site Code 004025), which are approx. 950m north. Summaries of the SAC and SPA are outlined below.

7.8.8. There is no hydrological connection between the subject site and the European sites.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)
Malahide Estuary SAC (Site Code 000205)	Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> , Fixed coastal dunes	c. 0.95km	None

	with herbaceous vegetation		
Malahide Estuary SPA (Site Code 004025)	Great Crested Grebe, Light-bellied Brent Goose, Shelduck, Pintail, Goldeneye, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Redshank, Wetland and Waterbirds	c. 0.95km	None

Consideration of potential significant effects

7.8.9. There is no hydrological connection between the subject site and the European sites. Taking this into consideration, together with the separation distance between the sites and the smallscale nature of the development, I do not consider there is any potential for likely significant effects on qualifying interests within the SAC and SPA sites.

Screening Determination

7.8.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 000205 and 004025, or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.8.11. This determination is based on the following:

- The absence of any identified hydrological connections between the subject site and the European sites.

- The smallscale nature of the development, which does not require specialist construction methods, and the level of separation between the sites.

8.0 Recommendation

8.1. I recommend that permission is refused for the following elements of the proposal: -

- Construction of a single storey, detached dwelling to east side of existing dwelling,
- Construction of part-2m and part-0.9m high front boundary wall along northern boundary,
- Associated new vehicular access points, pillars and gates onto Parnell Cottages
- Associated site works, including SuDS measures.

8.2. I recommend that permission is granted for the following elements of the proposal:

- Part-demolition of existing extension to side of existing dwelling,
- Construction of single storey extension to front and rear of existing dwelling.
- Associated site works, including SuDS measures.

9.0 Reasons and Considerations

Reasons and Considerations (1)

The proposed development which is located on an infill plot within an Architectural Conservation Area constitutes overdevelopment of a restricted site, which would have an overbearing and dominant impact on adjoining residential property to the south and would result in a visually incongruent form of development within the architectural conservation area, by reason of the incorporation of an angled monopitch roof section and the provision of a 2m high wall along the north (front) site boundary. The development would therefore seriously injure the amenities of property in the vicinity, would be injurious to the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Reasons and Considerations (2)

Having regard to the pattern of development in the area and the scale and form of the proposed development, it is considered that the proposed development would not have any unacceptable impact on the character of the area or the amenities of adjoining residential occupiers and would be in accordance with the proper planning and sustainable development of the area.

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>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, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by 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 in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be</p>

	<p>agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Barry O'Donnell
Planning Inspector

11th November 2021.