



An
Bord
Pleanála

Inspector's Report

ABP-310901-21

Development

Demolition of existing house;
Construction of a house, with roof terrace and detached garage, New vehicular entrance to Dublin Road and all ancillary works necessary to facilitate the development including upgrade of boundary walls and access onto Sutton Strand.

This application is accompanied by a Natura Impact Statement.

Location

Lenco, 159 Dublin Road, Sutton,
Dublin 13, D13 F9V2

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F20A/0490

Applicant(s)

Roisin McNeela and Ciaran Cosgrave.

Type of Application

Permission.

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Observer(s)

Kim Gilbert,

Paul Feely

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 0.11ha and is located at 159 Dublin Road, Sutton. The property is known as Lenco and it occupies a prominent location on the approach to Sutton from Kilbarrack and Dollymount, to the west, where it is the first house on the south side of the road. It is at the western entry to the Sutton Cross architectural conservation area.
- 1.2. The site comprises of triangular plot between Dublin Road and Sutton Strand and it currently contains a single storey cottage (with attic accommodation) of simple design and form, which sits perpendicular to the adjacent road. It has a long, narrow garden area, which leads up to the public footpath and cycle path routeing parallel to the Strand along Dublin Road.
- 1.3. The site accesses directly onto Sutton Strand, via a staircase adjacent to the south site boundary which has fallen into disrepair along with the remaining section of the site's sea wall, which has itself fallen overtime and allowed part of the garden to be eroded by the sea.
- 1.4. There are a mix of house types and sizes in the area, including large and traditional housing and contemporary designs. This part of Dublin Road is typically characterised by large, traditionally designed houses, on large plots.

2.0 Proposed Development

- 2.1. The development entailed within the public notices comprised: -
 - Demolition of existing 2-storey dwelling,
 - Construction of a replacement 2-storey, flat-roofed dwelling and a detached single storey garage,
 - Removal of an existing entrance gate and provision of a new 8.9m wide entrance to Dublin Road,
 - Refurbishment of existing boundary walls, to a maximum height of 1.75m,
 - Removal/replacement of rear (southern) sea-wall with new sea wall served by inset pedestrian entrance/staircase to Sutton Strand, of 2.3m height and will 1.1m balustrade atop,

- Ancillary works, landscaping and SuDS measures are included,
- An Natura Impact Statement was submitted with the application.

- 2.1.1. The development was amended at the Additional Information stage, whereby 2 separate design options (Options A and B) were provided. Both options retained 5 No. bedrooms, omitted the proposed detached garage and the included an enclosed parking space within the eastern block. Option B provided the eastern-most block as a single storey element, whilst Option A provided the block as a 2-storey element (providing a living room, WC and storage room at first floor level).
- 2.1.2. The development has been further amended as part of the appeal. The house remains a 5-bed, 2-storey design but it has been reduced in length, to 35m (a reduction of 4.4m). The reduced length has been primarily achieved by reconsideration of the layout of the east end of the house (the area of the carport/gym and entrance hall).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on 24th June 2021 for 2 reasons, as follows: -
1. *The dwelling by reason of the proposed design with blank north and west elevations would create an unacceptable defensive interface with Dublin Road and together with the excessive length and sectional block form fails to reinforce the distinctiveness and sense of place of the surrounding context by detracting from the existing openness of the area and if permitted the proposed development would be unduly dominant and intrusive upon the visual amenities of this highly sensitive prominent site on the seaward side of the road at the western entry to the Architectural Conservation Area for Sutton Cross. The development would materially contravene Objective DMS 157 of the Fingal Development Plan 2017-2023 which seeks to 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.

2. *The proposed dwelling would constitute overdevelopment of the constrained angular site by reason of the excessive linear length and proximity to the southern boundary. The proposed development would not be consistent with the proper planning and sustainable development of the area and would set an undesirable precedent for other similar development.*

3.2. Planning Authority Reports

3.2.1. Planning reports dated 26th November 2020 and 18th June 2021 have been provided, which reflect the Planning Authority's decision to refuse permission. The first report outlined that the proposal was acceptable under the zoning but expressed concerns regarding the overall scale and design of the development and the impact of raised boundary walls which were considered to impact on views of Sutton Strand. The report also expressed the view that the proposed detached garage should be omitted. The report also summarised the comments and concerns of internal departments. Additional information was requested in relation to the following aspects of the development: -

- The applicant was requested to demonstrate that all lands within the red line boundary are within their ownership. The applicant was also requested to address concerns regarding the visual and physical impact of the proposed retaining wall on the beach and landscape.
- A description and condition report in relation to the existing house was requested, which would inform the determination of whether proposed demolition was acceptable.
- Revisions to the proposed house, to reduce its scale and linear form. A number of specific revisions to the proposal were requested: -
 - Relief to overcome the defensive nature of the north and west elevations.
 - Omission of the eastern section of the house and repositioning eastward.
 - Omission of the utility roof to the western section and reduced height of the western-most element.

- Omission of the proposed detached garage.
- Omission of the proposed boundary wall height increase and reduction in height or reconsideration of the composition of the sea defence wall.
- A reduced vehicular access width of 4m.
- A complete tree survey including impact assessment, tree constraints plan, tree protection plan and method statement. A landscape plan was also requested.

3.2.2. The second report summarised and responded to the individual AI responses and, in respect of AI item 3, considered the revisions proposed did not address the expressed concerns. The report outlined that the proposed house appeared to have been enlarged in specific areas and that the revisions failed to satisfy the Planning Authority's request. Ongoing concerns were expressed regarding the length of the house and the design and appearance of the north and west elevations and the proposal was considered to result in overdevelopment of the site and a visually obtrusive form of development. The report recommended that permission be refused for 2 No. reasons, which are consistent with the Planning Authority's decision to refuse permission.

3.2.3. Other Technical Reports

Conservation Officer

Reports dated 24th November 2020 and 17th June 2021 have been provided. The first report outlined that the site is at the western entry point to the Sutton Cross and Environs Architectural Conservation Area and that the special character of the area is established by the historic houses, dating mostly from the late 19th and early 20th Century, that formed the initial development of the roads radiating out from Sutton Cross. The existing house on the site is stated to have been built at the turn of the 20th Century and it was therefore considered to form part of the historic group of buildings contributing to the character of the ACA. A robust justification was considered necessary, to justify its demolition and replacement. Additional information was requested, as follows: -

- A detailed description and condition report was requested, to inform the determination as to whether the proposed demolition would be acceptable.

- Revisions to the proposed design and layout were requested, to reduce the linear length of the house, in order to retain some of the open character of the site, and revisions to the Dublin Road and west elevations were requested, to provide some relief from the defensive nature of the appearance of both elevations.

The subsequent report responded to aspects of the AI response, acknowledging that renovation and reuse of the existing use would be difficult, without impacting the front façade of the house. Ongoing concerns were expressed regarding the scale and design of revised design Options A and B, which were considered to be very similar to the original proposal. The concerns expressed within the original Conservation Officer report were considered to have unsatisfactorily addressed.

Transportation

Two undated reports have been provided, both of which recommended a number of conditions as part of a grant of permission, including a requirement that the entrance from Dublin Road should be reduced to 4m.

Water Services

Reports dated 11th May 2020 and 11th June 2021 have been provided, both of which recommended a number of conditions as part of a grant of permission. Regarding flood risk, the reports outlined that the site is located within Flood Zone C and that proposed mitigation was considered acceptable.

Parks and Green Infrastructure

Reports dated 22nd October 2020 and 17th June 2021 have been provided. The first report requested that additional information should be sought, to require the submission of a complete tree survey and a landscaping plan. The report also recommended that access should only be taken from private land and that equipment or vehicles should not be parked or stored on open space.

The second report recommended a condition as part of a grant of permission, which included a requirement that the house shall be finished with a texture as per the submitted CGI images (timber imprint concrete or similar) rather than the stated render.

3.3. Prescribed Bodies

- 3.3.1. Irish Water made submissions on 16th November 2020 and 13th June 2021. The first report requested additional information, in relation to existing infrastructure within the site, which may be required to be diverted in order to facilitate the proposed development. The second submission requested a condition be attached to any grant, requiring the applicant to enter into a connection agreement.

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 that the development contravenes the zoning objective.
 - Concerns that the development does not comply with objectives LC05, LC06, LC07, LC08 of the development plan
 - Concerns that the development was out of character with the ACA location and would have an adverse visual impact, also blocking views across Dublin Bay which is identified as a protected view by the development plan. One observer expressed the view that a visual impact assessment should have been submitted.
 - Concerns regarding the design and form of the replacement house.
 - Concerns that the development constituted overdevelopment of the site.
 - Concerns that the applicant had not justified the proposed demolition.
 - Concerns that the extent of the development site incorporated a section of beach.
 - Concerns that the description of development entailed within the public notices was inaccurate.
 - Concerns that the proposed house may be used for commercial purposes.
 - Concerns regarding the impact of construction on adjacent SPA and SAC sites.
 - Concerns that the development may create road safety risks.
 - One observer pointed out that a previous grant of permission for a replacement house on the site was of a reduced scale to that currently proposed.

- One observer expressed the view that the existing house should be refurbished rather than demolished.
- One observer stated that a sewer inspection and access structure is located on the city-side of the site.

3.4.2. A number of additional submissions were received following the submission of the additional information response, additional issues raised within which can be summarised as follows: -

- The revised design of the proposed house was considered to be similar to that originally proposed.
- It was considered that the applicant had not adequately verified ownership of the site.
- One observer stated that a tree at the south-western corner of the site had been cut down.
- One observer argued that the AI response had not been submitted within 6 months of the request.

4.0 Planning History

F08B/0678 - Permission granted on 24th February 2009 for a flat roof single storey extension, together with internal and external alterations and changes to front, rear and sides elevations including 1st floor return level dormer.

F08A/0704 - Application for demolition of existing house and construction of a larger replacement 2 storey dormer bungalow. The application was withdrawn by the applicant on 21st November 2008.

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.'*

5.1.2. For demolition proposals within ACAs, it is advised that *'where it is proposed to demolish a structure that contributes to the character of an ACA or to demolish behind a retained façade, the onus should be on the applicant to make the case for demolition. The planning authority should consider the effect both on the character of the area and on any adjacent protected structures. When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area.'* The section also provides criteria, to inform the assessment of demolition proposals as follows: -

- a) Does the structure (or part of the structure) to be demolished contribute to the character of the area?
- b) What effect would removal of the structure have on the setting of other structures in the area, the balance of an architectural composition or the setting of any adjacent protected structures?
- c) Would the character and special interest of the whole of the structure or of the ACA be diminished by the demolition of a part?
- d) Has the extent and potential impact of the proposed demolition been minimised?
- e) Are there alternatives to demolition, even where the structure is in poor condition?
- f) In the case of accidental damage, could demolition be avoided and the structure saved by carrying out repairs or providing temporary support or shelter to the fabric?
- g) Is partial demolition justifiable in the interests of the retention of the remainder of the structure?

- h) If the special interest of the structure lies in its largely unaltered state, could permission be given to demolish any part of it without damaging that special interest?
- i) Has the incorporation of the structure (or part of the structure) into a new development on the site been given adequate consideration?
- j) What are the merits of alternative proposals for the site, taking into consideration the development plan objective to conserve the character of the area?

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 falls within an Architectural Conservation Area, which encompasses lands to the north and south of Sutton Cross, extending along Dublin Road and Greenfield Road to the south and Station Road to the north. The development plan identifies the ACA as ‘Sutton Cross & Environs’

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

CH37: Seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal in both the towns and rural areas of the County by deterring the replacement of good quality older buildings with modern structures and by protecting (through the use of Architectural Conservation Areas and the Record of Public Structures and in the normal course of Development Management) these buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type.

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

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

NH40: Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.

NH59: Protect the special character of the coast by preventing inappropriate development along the coast, particularly on the seaward side of coastal roads. New development for which a coastal location is required shall, wherever possible, be accommodated within existing developed areas.

NH60: Strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards, and sited appropriately so as not to detract from the visual amenity of the area. Development shall be prohibited where the development poses a significant or potential threat to coastal habitats or features, and/or where the development is likely to result in altered patterns of erosion or deposition elsewhere along the coast.

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.

Section 12.4 provides development management criteria to control residential development.

5.4. Natural Heritage Designations

- 5.4.1. The subject site is not located within or adjacent to any designated European Site. The North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (Site Code 004006) abut the rear (south) boundary of the site and both follow the coastline in this area.

5.5. EIA Screening

- 5.5.1. The subject development is for a single house, on a site of 0.11ha, falling 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).
- 5.5.2. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which comprises demolition and construction a single house

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

The grounds of appeal can be summarised as follows: -

- Refusal reason No. 1
 - Reference is made to other properties in the vicinity, as demonstration of the lack of uniformity to building designs in the area. Reference is made to 146 Dublin Road (Reg. Ref. F20A/0028), 19 Greenfield Road (Reg. Ref. F16A/0564), 19A Greenfield Road (Reg. Ref. F17A/0684), Kinnagoe, Greenfield Road (Reg. Ref. F21A/0268), Water's Edge, Greenfield Road (Reg. Ref. F05A/0676) , Seaverge, Greenfield Road (Reg. Ref. F13A/0124), Dunmuire, Greenfield Road (Reg. Ref. F14A/0103) and Ouvane, Greenfield Road (Reg. Ref. F16A/0478).
 - The proposed house has a contemporary form but the standard of architecture is exemplary and is befitting of an architectural conservation area location.
 - The development plan doesn't present any discussion or rationale for the designation of the area as an ACA.
- Refusal reason No. 2
 - The proposed development provides a form of contemporary aesthetic which should be supported by the Planning Authority in this location. The unique design and materials palette mitigate against any undue visual impact whilst allowing for more efficient use of the site.
 - The proposal represents no undue departure from the architectural style and character of the ACA. It is contended that the development provides a marked

improvement on the visual amenity offered currently by the building on the site.

- Reference is again made to other instances in the surrounding area, in regards to the variety of architectural styles in evidence and the lack of uniformity. In particular the development at Ouvane, Greenfield Road (Reg. Ref. F16A/0478) is considered in detail, against the current proposal
- An Architect's Design Report has been provided as part of the appeal, which discusses the design evolution and the surrounding context.
- An amended design is provided as part of the appeal. The applicants express a preference for the option A proposal submitted at the additional information stage and the Board is asked to only give consideration to the appeal-stage amended design if it is necessary.
- The Board is requested to overturn the Planning Authority's decision and grant permission.

6.2. Planning Authority Response

6.2.1. The Planning Authority made a submission on 18th August 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.
- Revised proposals are noted but are not considered adequate to address the Planning Authority's stated concerns regarding the length of the house and its defensive interface with Dublin Road. The proposed amendment would result in the house being brought closer to the southern boundary.
- The development remains unduly dominant and intrusive upon the visual amenities of this site, on the seaward side of the road and at the entry to the Sutton Cross ACA.

- The Board is requested to uphold the Planning Authority's decision.

6.3. Observations

6.3.1. Letters of observation have been received from Kim Gilbert and Paul Feely, the issues raised in which are summarised separately below: -

Submission by Kim Gilbert

- The observer lives at 119 Dublin Road, Sutton, on the opposite side of the road to the subject site.
- The observer understands there is an underground tank on the site, which will be affected by the development. The applicant should be requested to identify its location.
- The development, in particular boundary walls, should not compromise objectives of the development plan, particularly those relevant to ACAs and protected views and prospects. It is unclear if the proposed boundary walls are necessary.
- The development should have been supported by a visual impact assessment.
- The development does not comply with objectives DMS44, DMS39, LC05, LC06, LC07, LC08 of the development plan, which relate to protected views and prospects and landscape character areas.

Submission by Paul Feely

- The observer lives at 120 Dublin Road, Sutton, on the opposite side of the road to the subject site.
- Most of the people who objected to the development at the Planning Authority stage will be unaware of the amendments proposed as part of the appeal.
- The development contravenes the zoning objective.
- The changes proposed as part of the appeal do not address the observer's concerns. The massing and length fail to harmonise with the scale and arrangement of adjacent houses.

- The development will have a detrimental impact on the observer's ability to enjoy their home, with reference to overbearance and impacts on visual and residential amenities.
- The development represents overdevelopment of the site that will devalue property in the area and will set an undesirable precedent for similar developments.
- The design is bulky and out of character with the scale and character of adjacent properties along Dublin Road. The proposed design is particularly damaging to visual amenities along Sutton Strand and detracts from the openness of the surrounding ACA location, in contravention of the provisions of objective DMS157 of the development plan. The elevations and western orientation should be retained, to overcome the defensive nature of the development.
- The c.40m length of the house is equivalent to a 15-storey tall building and the proposal also intends to double the height of the existing dwelling. In addition, the proposed 2m boundary wall and tree planting along the Dublin Road frontage create a defensive structure, which has a severe impact on the receiving context and will obscure views of Dublin Bay.
- Without infill and land reclamation, there is very little site available to develop because of the extent of erosion which has occurred and the requirement to maintain a wayleave along the Dublin Road frontage.
- Reference is made to a previous application for a replacement house on the site, which was withdrawn following an AI request, where the applicant was requested to revise the proposed design to provide for a house of low-level height and simplistic form, that protects the residential and visual amenities of the area. It is considered that the same issues arise in this instance.
- The proposed sea wall will intimidate pedestrians walking along the beach.
- The applicant states that the existing house is 2-storey in height, whereas it is in fact a dormer bungalow within a ridge height of c.6m and a floor area of 109sqm.
- The existing house should be refurbished and extended. Its demolition is unnecessary.

- The development has the potential to endanger pedestrian and cyclist safety, through visual obscurement along Dublin Road and due to the height of the sea wall.
- Due to the extent of dilapidation of the sea wall, there is a risk of flooding.
- The development has the potential to impact on North Bull Island SPA and Dublin Bay SAC.
- The observer does not object to suitable redevelopment of the site and their objection relates to the proposed design. A revised design, which integrates with the surrounding context is recommended.

6.4. **Prescribed Bodies**

- 6.4.1. The appeal was circulated to The Arts Council, An Taisce, The Heritage Council, Failte Ireland and the Department of Culture, Heritage and the Gaeltacht. No responding submission was received.

6.5. **Further Responses**

- 6.5.1. 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;
- Design, scale and impact on built heritage;
- Residential amenity;
- Access and road safety;
- Drainage and flood risk;
- Other issues; and
- Appropriate Assessment.

7.2. Principle of Development

- 7.2.1. The proposed development is consistent with the 'RS' zoning objective, as set out in the Fingal County Development Plan 2017-2023, under which residential development is permitted.
- 7.2.2. Objective CH37 states that the Planning Authority will seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage where such buildings contribute to the character of an area or town and/or where they are rare examples of a structure type.
- 7.2.3. At the additional information stage the applicant provided an Architectural Heritage Statement, prepared by Professor Cathal O'Neill & Company Architects, which described the existing house and its architectural interest, in the context of the 8 categories of special interest for protected structures specified by Section 51(1) of the Act, and concluded that the house does not have any special interest.
- 7.2.4. The assessment also considered the effect of the proposed demolition works on the character of the ACA, using the assessment criteria outlined at Section 3.10.3 of the architectural heritage guidelines, in particular outlining that the house's contribution to the ACA is neutral and that its removal would not have any perceptible effect on the siting of other structures within the ACA and would not affect its character.
- 7.2.5. The Conservation Officer's initial report on the application stated that the house is of limited architectural significance but considered that it should be viewed as part of the grouping of historic buildings in the area, rather than in isolation. The second report, following the AI response, acknowledged the practical difficulties associated with retention and refurbishment of the house, rather than replacement, where the front façade is likely to be impacted.
- 7.2.6. I have given consideration to the application of objective CH37 and in this instance I do not object to the demolition of the existing house, which is acknowledged by both the applicant and the Planning Authority as being of limited architectural significance and whose character and form would in any case be likely to be affected by any proposal to refurbish and extend, as an alternative to outright replacement. The Planning Authority also did not object to its demolition.

7.2.7. I therefore deem the proposal to be acceptable in principle, subject to consideration of other development aspects, as set out below.

7.3. Design, Scale and Impact on Built Heritage

7.3.1. Refusal reason No. 1 of the Planning Authority's decision stated that the proposed design would create an unacceptable defensive interface with Dublin Road and together with the excessive length and sectional block form fails to reinforce the distinctiveness and sense of place of the surrounding context by detracting from the existing openness.

7.3.2. Refusal reason No. 2 stated that the development would constitute overdevelopment of the site by reason of the excessive linear length and proximity to the southern boundary.

7.3.3. Both of the observers express concern regarding the impact of the development on existing views across Dublin Bay and concerns have also been expressed regarding the design and form of the house, which is considered to be out of character with the scale and arrangement of adjacent houses.

7.3.4. The applicant states that the proposed house has a contemporary form, that the standard of architecture is exemplary and is befitting of an architectural conservation area location and that it should be supported by the Planning Authority. The applicant further submits that the proposal represents no undue departure from the architectural style and character of the ACA and that it provides an improvement on the visual amenity offered by the existing house.

7.3.5. I have no objection to the contemporary design of the house, which I consider to be of a high standard and which would make a positive contribution to the ACA. The scale of the house was revised at the additional information stage and further revisions have been incorporated as part of the appeal but, its overarching contemporary design and form are retained. There are a variety of house designs and sizes within the ACA, including contemporary housing and remodelled and extended houses. I note in this regard that the Architectural Heritage Guidelines state that where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged.

- 7.3.6. Whilst I do not object to its contemporary design, I share the Planning Authority's concerns regarding the overall length of the house, which I consider to be excessive, in the context of the site, and out of character with the ACA. The Architectural Heritage Guidelines advises that the scale of a new structure should be appropriate to the general scale of the area and not its biggest buildings. And whilst I note the applicant's reference the redevelopment of the property 'Ouvane' as justification, I do not consider that it is directly comparable to the proposed development. Ouvane contains three detached houses that are read as such, rather than as a single mass.
- 7.3.7. In order to address the above-outlined concerns, I consider the eastern-most block, containing the carport/gym, entrance and coat room (and the option of a first floor living room) should be omitted and the house should be moved further east, in its place. This suggested approach concentrates the 2-storey element at the east end of the site and maintains a single storey height over the rest of the site, allowing for retention of some of the site's open character. Should the Board decide to grant permission, I recommend a condition be attached to this effect.
- 7.3.8. Regarding the Planning Authority's concerns that the development would create an unacceptable defensive interface with Dublin Road, I agree that the proposed raised boundary wall arrangement along the Dublin Road frontage is inappropriate and would have the effect of enclosing the site and impeding existing views through the site, toward Dublin Bay and Howth. I note, in this respect, that the development plan identifies the coastal part of Dublin Road as a preserved view (the preserved view extends up to the west site boundary). In order to maintain this open character and the existing views, the existing wall height should be retained (I have also previously recommended amendments to the design and scale of the house, which will reduce its massing and retain a greater proportion of the site as open). This will not impact on privacy within the site, given the proposed internal layout and the fact that the private garden area is to the rear of the house. This can be controlled by condition, should the Board decide to grant permission.
- 7.3.9. The proposed rebuilt sea wall is shown to have the same height as the east-adjointing sea wall to the rear of the property known as Moy – Elta, with a 1.1m high balustrade atop, to enclose the rear garden. Associated with the sea wall structure, I note that land raising will be required immediately on the north side of the wall, to provide a level side and rear garden area. The elevation drawings do not specify the

proposed finish of the sea wall but I note that the planning report dated 18th June 2021 expressed the view that the wall should incorporate a textured finish, as shown in CGI images, rather than a render finish. I agree that a textured finish would be more appropriate than a bare block or render finish. Should the Board decide to grant permission, I recommend a condition be attached requiring that the seawall should incorporate a textured finish.

7.4. Residential Amenity

Proposed House

- 7.4.1. The applicants have incorporated additional amendments to the proposed design as part of the appeal, but states that their preference is for the option A proposal submitted at the additional information stage and the Board is asked to only give consideration to the appeal-stage amended design, if it is necessary. I have given consideration to each of the design options in my assessment.
- 7.4.2. Table 12.1 of the development outlines internal standards for new houses but it does not contain standards for 5-bed houses. Notwithstanding, the proposed house is of a substantial scale, with a GFA of 376sqm, and I am satisfied that in each of the options proposed, it is adequately sized internally.
- 7.4.3. A rear garden area of 320sqm is also identified, exceeding the requirements of objective DMS87, which requires a minimum of 75sqm for houses of 4 bedrooms or more.

Neighbouring Houses

- 7.4.4. The site is adjoined to the east by a detached property known as Moy – Elta. I do not consider the proposed development would result in any significant or undue overshadowing, overbearing or overlooking impacts for this property. There are no east-facing windows at first floor level in any of the options proposed, that would overlook the adjoining garden, and whilst Option A and the further appeal revisions incorporate a first floor element at the east end of the house, this will not give rise to any significant overshadowing of the adjoining rear garden. BRE guidance '*Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice*' (2011) recommends that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on

March 21st. I am satisfied that the rear garden of this adjoining rear garden will remain adequately sunlit throughout the year, in accordance with the BRE recommendation.

7.5. Access and Road Safety

- 7.5.1. The site is currently accessed via a c.2.4m wide access from Dublin Road. The proposed development includes a new access arrangement closer to the east site boundary, comprising a new splayed access measuring c.6.1m wide at the crossover and reducing to 3.6m at the site entrance.
- 7.5.2. Splayed access arrangements such as the proposal are commonplace in the area, both within and outside the ACA and on both sides of Dublin Road. I note that the Planning Authority's Transportation department considered the proposed access to be excessively wide and sought an access of reduced 4m width but, in view of the pattern of development in the area and where the proposal would result in any road safety issue, I consider the proposed access arrangement is acceptable.
- 7.5.3. Visibility sightlines are not identified on the site layout drawing. The Transportation department advised that the required 49m sightlines achievable in both directions. I am satisfied that adequate sightlines can be provided from the proposed access. Should the Board decide to grant permission, I would recommend a condition be attached requiring the applicant to agree the layout of the site access with the Planning Authority.

7.6. Drainage and Flood Risk

Surface Water Drainage

- 7.6.1. Surface water will be drained to a soakaway/infiltration trench located within the rear garden. A Technical Note, prepared by DBFL Consulting Engineers, which includes a Ground Investigation Report was provided with the application, which provides calculations for the size of soakaway/infiltration trench required. I note that the location shown on the site services layout drawing shows the drainage channel encroaching to within less than 5m of the rear of the house. This is contrary to advice provided by BRE Digest 365, which advises that soakaways should not normally be constructed closer than 5m to building foundations. I am satisfied that a soakaway can be provided which accords with the BRE recommendations and would

recommend that, should the Board decide to grant permission, a condition be attached requiring surface water drainage proposals to be agreed with the Planning Authority.

Foul Water Drainage

- 7.6.2. Foul drainage is proposed to connect to the public network to the east of the site. I note that Irish Water did not object to the development.

Flood Risk

- 7.6.3. A Site Specific Flood Risk Assessment was submitted with the application, prepared by DBFL Consulting Engineers. The SSFRA states that the site is located in Flood Zone C, where the probability of flooding from rivers and the sea is low and where residential development is appropriate. The assessment notes that there appears to be a small encroachment of the Coastal 10% and 0.5% Tidal AEP event beyond the south site boundary.
- 7.6.4. Risks of pluvial flooding (arising from a pipe blockage or flood exceedance) and coastal flooding are proposed to be mitigated. Pluvial flood risk will be mitigated by regular maintenance of the site drainage system, which is itself designed to accommodate the 1 in 100-year rainfall event and which will incorporate an overflow pipe in the event of rainfall in excess of the 1 in 100-year rainfall event. Coastal flood risk will be mitigated by the proposed rebuilt sea wall which, although not required, will act as flood protection up to the 0.1% AEP event. Further, the finished floor level of the house will be a further 0.35m above top of the sea wall. The SSFRA concludes that the development meets the requirements of the Flood Risk Assessment Guidelines and that the proposed development is appropriate to this flood zoning and a justification test is not required.
- 7.6.5. The Water Services department of the planning authority commented on this aspect of the development and advised that proposed mitigation was acceptable.
- 7.6.6. I am satisfied that adequate provision has been made to mitigate tidal flood risk as part of the development.

7.7. Other Issues

- 7.7.1. Regarding concerns over the devaluation of property, I have assessed the merits of the proposal and do not consider the development would give rise to any

unacceptable overlooking, overshadowing or overbearing impacts. I therefore see no basis for concerns regarding devaluation of property.

- 7.7.2. One of the observers claims that there may be an underground tank on the site, which may impact on the proposed development. The issue was not addressed by the Planning Authority in its assessment and the applicant did not address it in the appeal submission. I am unclear on whether there is an underground tank on the site; the application drawings do not identify any such structure. In any case, I consider the presence of and requirement to remove such a structure as part of the development is an engineering matter, for resolution during construction, and is not a material planning consideration.

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. The applicant submitted a Natura Impact Statement (including AA Screening Report), prepared by NM Ecology, as part of the application. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts.
- 7.8.3. Having reviewed the documents and submissions on the file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 Appropriate Assessment Screening

- 7.8.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives.

7.8.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

Brief description of the development

7.8.6. A description of the proposed development is provided at Section 2.2 of the Screening Report. The development is also summarised at Section 2 of this Report. In summary, permission is sought for demolition of existing 2-storey dwelling and construction of a replacement 2-storey, flat-roofed dwelling and a detached single storey garage, together with new entrance arrangement, alterations to boundary walls including rebuilt 2.3m high sea wall and associated site works. The site has a stated area of 0.11ha and consists of a residential plot. It is situated on the south side of Dublin Road and is also located within the Sutton Cross ACA. The site is served by the public water supply. Foul drainage is proposed to drain to the public network via new connection to the east of the site.

7.8.7. I note that the document incorrectly identifies that surface water will be drained to the public network. As is outlined elsewhere in my report, surface water is proposed to be drained to a soakaway/infiltration trench located within the rear garden of the site.

7.8.8. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following impact mechanisms require examination:

Construction phase impacts

- Impact on water quality within a European site arising from surface water discharges / discharge of pollutants during construction work.
- Disturbance of species of special conservation interest (SCI) within a European site due to disturbance associated with construction activities (noise, vibration, lighting, etc) and increased human activity during construction.

7.8.9. The submissions from the applicant, Planning Authority and observers are summarised as Section 6 of this Report. One of the third party observers on the appeal expressed concerns in relation to potential impacts on European sites.

European Sites

7.8.10. The Screening Report states that the site is not located within a European site and that potential effects were considered within a zone of influence of 2km. The following European sites were stated as falling within the zone of influence: -

- North Bull Island SPA (Site Code 004006)
- North Dublin Bay SAC (Site Code 000206)
- Baldoyle Bay SAC (Site Code 000199)
- Baldoyle Bay SPA (Site Code 004016)

7.8.11. I note that Howth Head SAC (Site Code 000202), Rockabill to Dalkey Island SAC (Site Code 03000), Howth Head Coast SPA (Site Code 004113), Ireland's Eye SPA (Site Code 004117) and Ireland's Eye SAC (Site Code 002193) are also within a 5km search zone. In view of the smallscale nature of the project and the level of separation from these sites, I consider there is no real likelihood on significant effects on qualifying interests and these sites can be excluded at this stage.

7.8.12. A summary of European Sites within the search zone is presented in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
<u>SPA</u>				
North Bull Island SPA (Site Code 004006)	Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull, Wetland and Waterbirds.	Immediately adjoining	overgrown	Y
Baldoyle Bay SPA (Site Code 004016)	Light-bellied Brent Goose, Shelduck, Ringed Plover, Golden Plover, Grey	c.0.4km	None	N

	Plover, Bar-tailed Godwit, Wetland and Waterbirds			
<u>SAC</u>				
North Dublin Bay SAC (Site Code 000206)	Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with Ammophila arenaria, Fixed coastal dunes with herbaceous vegetation, Humid dune slacks, Petalwort.	Immediately adjoining	Overground	Y
Baldoyle Bay SAC (Site Code 000199)	Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows.	c.0.4km	None	N

7.8.13. In respect of Screening, the Screening Report states that: -

'...significant effects cannot be ruled out. The site is directly adjacent to an SAC and SPA, and could potentially cause indirect impacts via pollution or disturbance of fauna. Therefore, in accordance with the precautionary principle, it is suggested that Appropriate Assessment is required.'

Construction phase impacts

Baldoyle Bay SAC and SPA

7.8.14. Baldoyle Bay SAC and SPA are both approx. 370m north of the site. There is no surface water pathway connection between the sites, whilst the pathway via coastal water is very distant due to the presence of the peninsula in the intervening area. In view of the absence of a direct connection between the sites and the small scale nature of the proposed development, I consider there is no real likelihood on significant effects on qualifying interests and these sites can be excluded at this stage.

North Bull Island SPA and North Dublin Bay SAC

7.8.15. The development will not have any direct effect on qualifying interests within these European sites. The site is located outside of both European sites and the development will not result in the loss of habitat area within them.

7.8.16. Regarding indirect effects, the Screening Report states that in view of the close proximity of both sites, there are a number of pathways to both sites including surface water, groundwater, air and land. The Report outlines that there is a risk of significant effects arising from (a) potential surface water discharges from the site and (b) construction activity associated with rebuilding of a section of the sea wall and these issues therefore cannot be excluded at this stage. I would concur with this conclusion, particularly in view of the close proximity of the European sites to the subject site.

7.8.17. Regarding disturbance to qualifying interests within the SPA, the Screening Report outlines that during winter months a large number of birds are present in the coastal areas to the south of the site, including SCI for the SPA site, and that they are vulnerable to both visual disturbance (e.g. rapid or largescale movements) and noise disturbance (loud or repetitive sounds). The Screening Report considers there is a vulnerability to disturbance arising from aspects of the construction stage such as loud noise or the operation of large machinery. Whilst SCI species are already likely to experience and be habituated to some disturbance associated with domestic activities and other human activities within the wider area, in view of the close proximity of the SPA to the subject site, I consider there is a risk of significant effects arising from disturbance.

Screening Determination

7.8.18. 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 Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European sites.

- North Bull Island SPA, Site Code 004006,
- North Dublin Bay SAC, Site Code 000206.

Stage 2 Appropriate Assessment

7.8.19. The NIS examines and assesses potential adverse effects of the proposed development on North Bull Island SPA and North Dublin Bay SAC and was prepared based on a desk study. It is stated that the assessment was undertaken with reference to 'Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites' (EC, 2001), 'Assessment of Plans and Projects Significantly Affecting Natura 2000 sites; Methodological Guidance on the Provisions of Article 6(3) and (4)' (E.C., 2002) and 'Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater and Coastal' (Chartered Institute of Ecology and Environmental Management, 2019)

7.8.20. The NIS concluded that: -

'The proposed pollution-prevention measures will avoid or minimise the risk that pollutants could reach coastal in sufficient quantities to cause significant impacts upon habitats or species in the North Bull Island SPA and North Dublin Bay SAC. The installation of construction hoarding along the boundary of the site will avoid or minimise disturbance of birds in the SPA. The site foreman will be responsible and liable for the implementation and monitoring of the proposed mitigation.

These measures will substantially reduce the likelihood and magnitude of pollution events and disturbance, thus preventing a significant negative impact on the qualifying interests of the SAC/SPA. As a result, we conclude that the proposed development will not cause any significant negative impacts on the integrity of any Natura 2000 sites.'

Appropriate Assessment of Implications of Proposed Development

7.8.21. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

European Sites

7.8.22. The relevant European sites for Stage 2 Appropriate Assessment are North Dublin Bay SAC and North Bull Island SPA. This Stage 2 assessment will consider whether or not the project would adversely affect the integrity of these European sites, either individually or in combination with other plans and projects in view of the site’s conservation objectives, which are set out below.

North Dublin Bay SAC (Site Code 000206) immediately adjacent to south site boundary	
Discharge points: overground connection	
Conservation Objectives and Qualifying Interests/Special Conservation Interests	Potential Impacts
<p><u>Mudflats and Sandflats not covered by seawater at low tide:</u> To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in North Dublin Bay SAC.</p> <p><u>Annual vegetation of drift lines:</u> To restore the favourable conservation condition of Annual vegetation of drift lines in North Dublin Bay SAC.</p> <p><u>Salicornia and other annuals colonising mud and sand:</u> To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in North Dublin Bay SAC.</p> <p><u>Atlantic salt meadows:</u> To maintain the favourable conservation condition of Atlantic salt meadows in North Dublin Bay SAC.</p> <p><u>Mediterranean salt meadows:</u> To maintain the favourable conservation condition of Mediterranean salt meadows in North Dublin Bay SAC.</p> <p><u>Embryonic shifting dunes:</u> To restore the favourable conservation condition of Embryonic shifting dunes in North Dublin Bay SAC</p> <p><u>Shifting dunes along the shoreline with Ammophila arenaria:</u> To restore the favourable conservation condition of Shifting dunes along the shoreline with Ammophila arenaria in North Dublin Bay SAC.</p> <p><u>Fixed coastal dunes with herbaceous vegetation (grey dunes):</u> To restore the favourable conservation condition of Fixed</p>	<p><u>Direct Effects:</u> None</p> <p><u>Indirect Effects</u> Discharges during construction containing suspended solids or pollutants</p>

<p>coastal dunes with herbaceous vegetation in North Dublin Bay SAC.</p> <p><u>Humid dune slacks</u>: To restore the favourable conservation condition of Humid dune slacks in North Dublin Bay SAC.</p> <p><u>Petalwort</u>: To maintain the favourable conservation condition of Petalwort in North Dublin Bay SAC</p>	
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<p>North Bull Island SPA (Site Code 004006) immediately adjacent to south site boundary</p> <p>Discharge points: overground connection</p>	
<p>Conservation Objectives and Qualifying Interests/Special Conservation Interests</p>	<p>Potential Impacts</p>
<p><u>Light-bellied Brent Goose</u>: To maintain the favourable conservation condition of Light-bellied Brent Goose in North Bull Island SPA.</p> <p><u>Shelduck</u>: To maintain the favourable conservation condition of Shelduck in North Bull Island SPA.</p> <p><u>Teal</u>: To maintain the favourable conservation condition of Teal in North Bull Island SPA.</p> <p><u>Pintail</u>: To maintain the favourable conservation condition of Pintail in North Bull Island SPA.</p> <p><u>Shoveler</u>: To maintain the favourable conservation condition of Shoveler in North Bull Island SPA.</p> <p><u>Oystercatcher</u>: To maintain the favourable conservation condition of Oystercatcher in North Bull Island SPA.</p> <p><u>Golden Plover</u>: To maintain the favourable conservation condition of Golden Plover in North Bull Island SPA.</p> <p><u>Grey Plover</u>: To maintain the favourable conservation condition of Grey Plover in North Bull Island SPA.</p> <p><u>Knot</u>: To maintain the favourable conservation condition of Knot in North Bull Island SPA.</p> <p><u>Sanderling</u>: To maintain the favourable conservation condition of Sanderling in North Bull Island SPA.</p> <p><u>Dunlin</u>: To maintain the favourable conservation condition of Dunlin in North Bull Island SPA.</p> <p><u>Black-tailed Godwit</u>: To maintain the favourable conservation condition of Black-tailed Godwit in North Bull Island SPA.</p> <p><u>Bar-tailed Godwit</u>: To maintain the favourable conservation condition of Bar-tailed Godwit in North Bull Island SPA.</p> <p><u>Curlew</u>: To maintain the favourable conservation condition of Curlew in North Bull Island SPA.</p> <p><u>Redshank</u>: To maintain the favourable conservation condition of Redshank in North Bull Island SPA.</p> <p><u>Turnstone</u>: To maintain the favourable conservation condition of Turnstone in North Bull Island SPA.</p> <p><u>Black-headed Gull</u>: To maintain the favourable conservation condition of Black-headed Gull in North Bull Island SPA.</p>	<p><u>Direct Effects</u>: None</p> <p><u>Indirect Effects</u> (1) Discharges during construction containing suspended solids or pollutants</p> <p>(2) Disturbance of SCI during construction</p>

<u>Wetlands:</u> To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it.	
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7.8.23. Of the qualifying interests within the North Dublin Bay SAC, Mudflats and sandflats not covered by seawater at low tide are shown to be proximate to the coastline in the area of the subject site. The remaining qualifying interests within the European site are not proximate to the coastline in the area of the subject site.

Evaluation of Effects

7.8.24. As has been set out previously, the following impact mechanisms require examination:

- Impact on water quality within the SAC and SPA sites arising from surface water discharges / discharge of pollutants during construction work.
- Disturbance of species of special conservation interest (SCI) within the SPA due to disturbance associated with construction activities (noise, vibration, lighting, etc) and increased human activity during construction.

Impact on water quality within the SAC and SPA sites arising from surface water discharges / discharge of pollutants during construction work.

7.8.25. The Natura 2000 form for the SAC identifies that it is at 'medium' risk from surface water pollution.

7.8.26. The NIS states that the intertidal habitats in the adjacent section of the North Dublin Bay SAC are very rich in invertebrate life and support many of the birds for which the North Bull Island SPA is designated and that many of these species are sensitive to additional sources of pollution. The NIS states that it is difficult to hypothetically assess the impact of a pollution incident because it would depend on the type of pollutant, the quantity of material discharged, the rate of discharge and the time of year.

7.8.27. Construction works immediately adjacent to the European sites have the potential to generate a range of pollutants, including suspended solids and hydrocarbons, which may be released into the adjacent coastal waters and which have the potential to affect features and species of interest within both sites. Minor pollution incidents can be expected to be diluted by the coastal waters, reducing concentrations to

negligible levels but, in view of the close proximity, there is nevertheless the potential for the transfer of pollutants that could cause significant effects on the habitats or species of interest within the European sites.

Disturbance of species of special conservation interest (SCI) within the SPA

- 7.8.28. The NIS states that disturbances can cause birds to exhibit avoidance behaviour and that occasional intense disturbance (e.g. a loud noise) could cause birds to take flight, depleting energy reserves, whilst persistent disturbance could displace birds from feeding areas or roosting sites. The NIS states that it is difficult to accurately predict the effect of disturbance arising from the development, but that it is possible that it could cause significant effects.
- 7.8.29. The SPA supporting document includes the results of site surveys undertaken at various locations. The subject site is located on Sutton Strand South (Code 0UL48) and site surveys identified the presence of a number of SCI for the SPA in this area.
- 7.8.30. The proposed development is smallscale and is unlikely to require any specialist construction methods. As has been stated previously, SCI within the SPA are already likely to experience and be habituated to some disturbance associated with domestic activities and other human activities within the wider area. Nevertheless, construction activities may result in disturbance of SCI, consequently affecting the integrity of the SPA.

Proposed mitigation

- 7.8.31. Section 5 of the NIS sets out proposed mitigation, which can be summarised as follows: -
- Concrete and cement
 - Concrete mixing/pouring will only take place in dry conditions. It will be suspended if high-intensity rain is forecast.
 - Where possible, precast structures will be used in preference to on-site poured structures.
 - On-site mixing of concrete will only be carried out in the north of the site, as far as possible from the coastal waters.

- On-site storage of cement-based products will be kept in a sheltered/covered area in the north of the site, in order to prevent spread by wind.
- Ready-mix lorries and larger plant will be taken to an off-site facility to be cleaned, with the capacity to capture and treat contaminated wash water.
- On-site cleaning of tools or concrete batching plant will take place in the north of the site. Wash water will be discharged to an on-site soakaway, located as far as possible from the coastal waters.
- Suspended solids
 - Excavation works will be suspended if high-intensity rain is forecast.
 - A silt fence will be installed along the south boundary of the site (on the landward side of the sea wall) in order to intercept any overland flows. The lower 200-300mm of the membrane will be buried vertically underground and the fence will be held up by support poles at 2m intervals. The fence will be maintained for the duration of construction.
 - If any excavated waters need to be dewatered, the contaminated water will be retained and treated within the site boundary. It will be collected and pumped to a settlement tank or similar and left undisturbed until sediments have settled and then discharged via a buffered outflow to a soakaway, located as far as possible from the coastal waters. No waters will be pumped directly to the coast.
 - Stockpiles of mud/sand of other sediments will be stored as far as possible from the coastal waters. Stockpiles will be levels and compacted and will be covered in thick membranes in order to limit wind/rainwater erosion.
- Hydrocarbons and chemicals
 - Any fuel or chemical containers will be kept as far as possible from the coastal waters. These hazardous pollutants must be stored in a designated bunded area, with sufficient capacity.
 - Machinery will be securely locked overnight and will be protected from vandalism.

- On-site refuelling will take in a bunded/impermeable area as far as possible from the coastal waters. Immobile plant will be refuelled over drip trays.
- Diesel pumps, generators or other similar equipment will be placed on drip trays while in operation.
- A spill kit will be kept on site. In the event of a spill, measures will be taken to intercept pollutants before they leave the site.
- Avoiding disturbance of fauna
 - A construction hoarding of at least 3m height will be installed along the south, east and west site boundaries, to minimise visual noise disturbance and to reduce noise levels reaching the coast
 - It is anticipated that most construction work will take place in Summer months, when bird activity is lowest.

7.8.32. The NIS also states that the site foreman will be responsible for implementation and monitoring of all mitigation measures.

7.8.33. The proposed mitigation is intended to ensure that no suspended solids or other pollutants will be discharged to coastal waters from the main part of the site but I am concerned that potential pollutant discharges from the seawall aspect of the development would be uncontrolled, given the silt trap would be located on the landward side of the wall. In order to overcome this, the silt trap should be relocated to the seaward side of the wall, to ensure that sediment from all aspects of the development would be contained. This will require the wall being moved slightly to the north, further into the site, in order to ensure that the development is contained within the application site / applicant's landholding and in order to ensure that no part of the development encroaches into the European sites. This amendment can be resolved by condition.

7.8.34. The NIS does not include any commitment to avoid the storage of materials or wider use of the shore (i.e. the seaward side of the seawall) during construction. Given the European sites encroach up to the seaward side of the wall, and taking a precautionary approach to ensure integrity is not affected, I consider an additional condition should be attached, requiring that all construction activity and

materials/equipment storage shall be contained within the application site and no construction activity shall take place on the seaward side of the wall.

In-combination impacts

- 7.8.35. The NIS did not identify any other developments in the surrounding area, which could potentially give rise to significant in-combination effects.
- 7.8.36. There are extensive recent planning records in the area. In particular I note that permission was granted at 146 Dublin Road, for an additional detached house under Reg. Ref. F20A/0028, and at Kinnagoe, Greenfield Road, for a detached house under Reg. Ref. F21A/0268. Both of the referenced applications included an Appropriate Assessment/Natura Impact Statement, which contained mitigation proposals.
- 7.8.37. In view of the smallscale nature of the development and the fact that no significant effects will arise from the development alone, no additive effects could arise that would result in significant effects.

Integrity Test

- 7.8.38. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain beyond reasonable scientific doubt that the project would not adversely affect the integrity of North Bull Island SPA and North Dublin Bay SAC, in view of the Conservation Objectives for both sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Conclusion

- 7.8.39. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that the likelihood of significant effects on the following sites could not be excluded: -
- North Bull Island SPA, Site Code 004006,
 - North Dublin Bay SAC, Site Code 000206.

7.8.40. Consequently, an Appropriate Assessment was required of the implications of the project on qualifying interests within the European sites, in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the European site, or any other European site, in view of its conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed development.

8.0 Recommendation

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the 'RS' zoning which applies to the site under the Fingal County Development Plan 2017-2023, under which residential development is permissible, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would be in keeping with the character of the area, would not seriously injure the visual amenities of the area or the character of the surrounding architectural conservation area and 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 additional information submitted on 31 st May 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.
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	Reason: In the interest of clarity.
2.	<p>The development shall be amended as follows: -</p> <ul style="list-style-type: none"> • The 2-storey element and single storey link at the east end of the house shall be omitted and the house shall be resited further east, in its place. • The proposed timber railing along the front (north) boundary wall shall be omitted. • The proposed sea wall shall incorporate a textured finish (i.e. timber imprint concrete or similar). • The sea wall shall be re-sited further north, in order to ensure that a silt fence can be provided on its seaward side and within the application site boundary. <p>Prior to the commencement of development, revised drawings shall be submitted for the written agreement of the Planning Authority, which reflect these amendments.</p> <p>Reason: In the interests of visual amenity and to ensure protection of the conservation status of adjacent European sites</p>
3.	<p>Mitigation measures outlined in the Natura Impact Statement prepared by NM Ecology shall be implemented in full.</p> <p>Reason: In the interest of protection of the conservation status of adjacent European sites.</p>
4.	<p>All construction work and materials/equipment storage shall be contained within the application site and no construction activity or storage shall take place on the seaward side of the proposed seawall.</p> <p>Reason: In the interest of protection of the conservation status of adjacent European sites.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended construction</p>

	<p>practice, noise management measures, parking proposals for construction workers on the site and storage of materials and waste within the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
6.	<p>Water supply and drainage arrangements 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>
7.	<p>The design and layout of the access to the site from Dublin Road, including visibility splays, shall comply with the requirements of the planning authority, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of road safety.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
9.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the</p>

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

Barry O'Donnell
Planning Inspector

3rd November 2021.