



An
Bord
Pleanála

Inspector's Report

ABP-311944-21

Development	Demolition of dwelling and construction of 6 bedroom dwelling.
Location	St. Joseph's, The Hill, Malahide, Co. Dublin, F36 CV48
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0427
Applicant(s)	KGJM Ltd
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	KGJM Ltd
Observer(s)	Brian and Deirdre Hill Miriam Duggan and Others Hazel Cairde
Date of Site Inspection	04 th of March 2022
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site (c. 0.134 ha) contains a detached dwelling (St Joseph's) and is located along The Hill, Malahide, Co. Dublin. The site is close to Malahide Village and is c 20m from the junction with Church Road and St Margaret's Park. The site has 2 no. vehicular accesses directly onto the main road and contains a dormer dwelling with private front and rear gardens. There are large detached two storey dwellings, on either side of the site (to the north and south), and in the vicinity of the site. There are level differences between the adjoining sites and the site slopes from south to north. There are mature trees and hedging throughout the site and around the boundaries.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the demolition of an existing dwelling and the construction of a new dwelling as summarised below:
- I. Demolition of an existing 5 no bedroom detached dormer bungalow and shed at the rear of the dwelling (c. 216m²);
 - II. Construction of a new 6 no. bedroom dwelling (two storey over basement c. 687 m²),
 - III. Removal of 2 no existing vehicular entrances and replacement with a single entrance;
 - IV. All other associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for the following 2 no. reasons:

1. In its current form the proposed development does not comply with Objectives PM44, PM45, DMS49 and DMS44 of the Fingal Development Plan 2017-2023, as it would fail to respect the established building line along The Hill, would be inconsistent with the existing character of the area and would

through its design be out of context, would be visually dominant and incongruous within the streetscape along this section of The Hill and would therefore not be in keeping with the proper planning and sustainable development of the surrounding area.

2. The proposed development by reason of overall scale, mass and bulk, would give rise to significant levels of overbearance upon the property located to the north and as such would seriously injure the amenities of the property in the vicinity and would not be in keeping with the proper planning and sustainable development of the surrounding area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission, following a request for additional information, and may be summarised as follows:

Background and Assessment

- The principle of development is acceptable.
- Permission was previously refused (F21A/0078) and the applicant has omitted the third floor and reconfigured the first floor.
- There remain concerns over the design submitted as it would be visually obtrusive, out of character with the surrounding area and incongruous with the streetscape of The Hill.
- A more traditional form of design would be more acceptable.
- Infill development along The Hill has been permitted which is a modern interpretation of traditional architectural form.
- The applicant does not provide any reference to similar types of dwellings along The Hill.
- There is no rationale how the dwelling reflects or protects the surrounding character.
- Further information should be sought with cognisance given to the infill permitted under F16A/0092, F17A/0004 and F18A/0157.

- It is not considered the proposal will give rise to significant level of overshadowing or overlooking.

Additional Information (Item 1)

- The applicant was requested to submit additional information requiring a redesign of the dwelling to reduce the massing and form, so it reflects the character of the surrounding area.
- The applicant was not discouraged from undertaking a modern design approach although a more traditional form is required.
- The above permitted infill developments were quoted in the request for additional information.

Additional Information (Item 2)

- The planner's report states that the current proposal breaks the established boundary line and should be refused to address this concern.

Applicant's Response

- The applicant considered the proposed contemporary design was an appropriate scale and design for the site and requested that PA determined the applicant on the original design submitted (10th of August 2021).

Conclusion

- It was concluded, having regard to the original submitted design, that the proposal was in breach of the building line and together with the overall scale, mass and contemporary design would be unduly dominant resulting in and incongruous feature when viewed within the streetscape.

3.2.2. Other Technical Reports

Transport Planning Section: No objection subject to conditions

Water Services Department: No objection subject to conditions

Parks and Green Infrastructure: No objection subject to conditions

3.3. **Prescribed Bodies**

Irish Water: No objections subject to conditions.

Dublin Airport Authority (daa): No objection subject to a condition requiring noise insulation.

3.4. **Third Party Observations**

Three third party submissions were submitted from adjoining residents and resident's associations of the area. These third parties have also made submissions to the grounds of appeal and the issues raised are similar. These are summarised below.

4.0 **Planning History**

4.1.1. On the site

Reg Ref F21A/0078

Permission refused for a similar development on the site consisting of the demolition of the existing dwelling and replacement of a contemporary dwelling (3 storey over basement). Two reasons for refusal were included

1. In its current form the proposed development does not comply with Objectives PM44, PM45, DMS39 and DMS44 of the Fingal Development Plan 2017-2023, does not respect the established building line existing along "The Hill" would be out of character with the surrounding area, would present a building of poor architectural merit in its context, would be visually dominant and incongruous with the streetscape along this section of The Hill and would therefore not be in keeping with the proper planning and sustainable development of the surrounding area.
2. Having reviewed the elevational treatment, with particular reference to the northern elevation, and the excessive height being proposed it is considered that the proposed development would give rise to significant levels of overbearance upon the property located to the north and as such would negatively impact upon the residential amenity of the surrounding area and would therefore would not be in keeping with the proper planning and sustainable development of the surrounding area.

4.1.2. The report of the PA lists planning history of relevance to the proposed development and within the vicinity of the site.

- **Reg Ref F18A/0157:** Permission granted at No 1. Parnell Cottages for modifications to F15A./0604 and includes revisions to the design and layout.
- **Reg Ref F17A/0004:** Permission granted at Langara, The Hill for the demolition of a dwelling and construction of a new dwelling (previously granted for renovation).
- **Reg Ref F16A/0092:** Permission granted at Wyngate for the demolition of a dwelling and construction of a replacement dwelling.

5.0 Policy Context

5.1. National Policy

Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (2009) and accompanying Urban Design Manual: A best practice guide

5.2. Fingal County Development Plan 2017-2023

Zoning

The site is zoned as residential, RS, where it is an objective “*To provide for residential development and protect and improve residential amenity*”

Noise

The subject site is located within Noise Zone C associated with the Dublin Airport.

- Objective DA07: Strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone, and actively resist new provision for residential development and other noise sensitive uses within the Inner Noise Zone, as shown on the Development Plan maps, while recognising the housing needs of established families farming in the zone. To accept that time based operational restrictions on usage of a second runway are not unreasonable to minimize the adverse impact of noise on existing housing within the inner and outer noise zone.

Landscape

The site is located within an area designated as Highly Sensitive Landscape (green infrastructure sheet No. 14)

- Objective NH37: Ensure that new developments meet high standards of siting and design
- Objective NH38: Protect skylines and ridgelines from development.

Infill, Corner and Backland Sites

- Objective PM44: Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.
- Objective PM45: Objective PM45 Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Development Management Standards -Other Residential Development

- Objective DMS39: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings

Residential Areas of Character

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

Trees

- Objective DMS77: Protect, preserve and ensure the effective management of trees and groups of trees.
- Objective DMS79: Objective DMS79 Require the use of native planting where appropriate in new developments in consultation with the Council.

5.3. Natural Heritage Designations

The site is located c. 600m to the southeast of the Malahide Estuary SPA (site code: 004025), the Malahide Estuary Proposed NHA and the Malahide Estuary SAC (site code: 000205)

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from the applicant in relation to the refusal of permission by the PA and are summarised below:

6.1.1. Background

- The principle of development is acceptable
- The current dwelling does not fully utilise the site.
- The contemporary design is in keeping with the emerging character and development of the area.
- A background to the site is included with views of the site.
- The site is well connected and located close to the village.

6.1.2. Planning History

- Reg Ref F21A/0078 was refused previously on the site. The proposed development has been reduced in design to address any concerns in relation to height and potential impact on the dwelling to the north.
- The amended design has been amended to bring the building line back.

6.1.3. Proposed Development

- The proposal includes the demolition of an existing dwelling (c.203m²) and shed and construction of a new dwelling (c. 687m²) with basement.
- A background to the size etc of each floor is provided.
- The overall design is intended to allow for a maximum energy rating in line with the objectives SW06, GI16 and GI33.
- Landscaping and trees planting are also proposed on the site.
- The design is avoiding an inappropriate pastiche form.

6.1.4. Reason No. 1

- Objective DMS44- Respecting the distinctive character. The proposal complies with the zoning, provides a high quality, high energy efficient dwelling and does not negatively impact on the neighbouring properties
- Building line- There is no distinctive building line and The Hill includes a varied building line (as submitted in an illustration). The minor variation in the depth at the front of the dwelling is not a reason for refusal.
- Character of The Hill- There are a variety of architectural characters and styles in the vicinity of the site. The houses are both contemporary and traditional. The site is not located in a sensitive zone. (Examples of differing designs of dwellings along The Hill). The Hill is characterised by large, detached dwellings largely screened by mature vegetation. The subject site will remain the same in character as these areas.
- Objective DMS39- In relation to the infill development, the proposal has been designed to take into consideration the slope on the site, the context of the adjoining dwellings and the characteristics of the surrounding area.

6.1.5. Reason No. 2

- The second reason for refusal relates to the impact on the residential amenity in terms of overbearing.
- The submitted design is considered high quality.

- A large portion of the dwelling is subterranean and therefore imperceivable from adjoining properties.
- The two-storey element is to the front and the single storey to the rear.
- The submitted Daylight and Sunlight analysis indicates no significant impact on the amenity of the dwellings surrounding the site.
- It is not considered the proposed development would give rise to any significant levels of overbearance.
- The contextual elevations illustrate the proposal sits 1.28m lower than the neighbouring dwelling to the south with the first floor set back.
- The proposed dwelling responds to the slope on the site.

6.1.6. Examples of Contemporary designs

- A number of planning permissions and associated built housing has been submitted as support for the proposed development. It is argued that Fingal Council have already permitted the type of contemporary architecture.
- F15A/0040 (ABP PL06F.244768)- St Margaret's Park, Malahide
- F17A/0314 (ABP PL06F.249388)- Grove Avenue, Malahide
- F17A/0319 (ABP PL06F.249098)- Grove Road- Malahide
- F20A/0629- Innisfree, Malahide
- F07A/01238- Corner Cottage, Texas Lane, Malahide
- F19A/0110- 3 no contemporary style dwellings – Howth

6.1.7. Previous Reason for refusal on the site (F21A/0078)

- The proposed development has been submitted as a response to the previous reason for refusal on the site.
- The design has been amended to address the 2 reasons for refusal and include a reduction in the floor area, reduction in the floor plate, omission of the second floor level, reduction in overall height by 2.25 and alterations to the front building to be consistent with the existing building line.
- The contemporary design will allow the streetscape to be enhanced.

6.1.8. Objective PM45 (innovative design).

- It is not considered the proposal will contravene this objective and there is a precedence for Fingal approving similar types of dwellings
- The assessment of the design could be considered subjective.
- The proposed development is not in a sensitive area.

6.1.9. Objective DMS39 (Infill and massing)

- As stated above, the proposal respects the natural slope of the site.
- There is a separation distance of over 26m from the rear of No. 11 St Margaret's

6.1.10. Standards for residential accommodation (development plan).

- The proposed development complies with the standards such as floor area, daylight and sunlight, separation distance and carparking.

6.1.11. Visual Amenity.

- The landscape character area for the site is coastal (development plan).
- The provision of a high-quality contemporary design is in line with the policies of the development plan in relation to the landscape character of the area.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority (PA) Response

A response was received from the PA stating that there where no further comments, it was requested that the Board uphold the reason for refusal and in the event of a grant of permission, it is requested that a condition is applied requiring a financial contribution in accordance with the Councils Section 48 Development Contribution Scheme.

6.4. Observations

Three observations have been received on the grounds of appeal from residents and resident's associations in the vicinity of the site. I have summarised each of these submissions below.

6.4.1. Brian and Dierdre Hill

This observation is from the residents of the property to the north of the site. The observation has been submitted by a Planning and Development Consultant on behalf of the observers, as summarised below:

The application

- The site layout drawings do not fully reflect the location of the existing dwelling to the north, in particular the existing side/rear extension is not included on the submitted plans.
- The plans do not meet the requirements of Article 22 of the Regulations.
- The location of the dwelling to the north is not adequately represented on the drawings (Figure 2 in Addendum 1 illustrates the actual elevations).
- The proposal should be made invalid as the PA has not clearly considered the matter of Article 22 and accordingly Article 23.
- The Board should refuse the permission by reason of non-compliance.

Reason No. 1

- Reason No. 1 refers to the site as The Hill.
- The proposed development is located on Church Road.
- The Malahide ACA is only c. 70m to the north of the site.
- The design of the streetscape should be considered.
- The reason for refusal refers to objectives in the development plan (Objective PM44, PM45, DMS39 and DMS39).
- The applicants choose not to amend the design, following a request for additional information.

- A more traditional form of contemporary design is more appropriate for the site.
- An established building line is broken this has been established in the immediate vicinity.
- The submitted contextual elevations show a conflict in styles in the vicinity.
- None of the houses submitted as precedent by the applicant are located in the vicinity.
- The contemporary designs in the vicinity are very limited unobtrusive scale such as extensions.
- The proposed design includes a set of rectangular blocks on a flat formed structure.
- The retention of trees/ hedgerows along the front boundary would not be a crucial factor in determination of the proposal.
- The client's objections to the original proposal still stand and are considered valid.

Reason No. 2

- Aside from the grounds of appeal, it is considered that the reason for refusal remains the same.
- The northern elevation of the existing dwelling has an overall length of 10.2m and the northern elevation of the proposed is 30.8m (increase of 20.8m).
- The existing dwelling is between 1.5m and 1.8m from the boundary of the northern elevation. The proposed dwelling has a clearance of 1.3m to 1.4m for a distance of 17.8m and 3.4m for 13m.
- The change in ground levels means that the new dwelling has the same ground levels as the northern dwelling.
- There is an increase in levels of 1.5m. The height of the single storey extension is 3.7m. The rear extension will project upwards and dominate the southern aspect of the property to the north. This will cause a serious injury to the residential amenities.

Supplementary images. (Addendum 1)

- Supplementary images have been prepared by architects to illustrate the impact on the property to the north.
- The images show an eye level from the rear of property “Evergreen”, contiguous front elevation and cross-sectional drawings and levels between the site and that to the north

6.4.2. Hazel Caird c/o Church Road Area Resident’s Association

- The resident’s association represents the residents of Church Road, lower part of The Hill, St Margaret’s Park and The Quarry.
- There is concern in relation to the broad principles of the proposed development.
- The proposed dwelling is too large for the neighbourhood.
- The proposed dwelling will be considerably larger than the surrounding buildings in the general area some of which have preservation orders.
- There is concern in relation to the excavation of the basement which is certainly through bedrock.
- The excavation will cause a major disturbance to the entire neighbourhood.

6.4.3. Miriam Duggan (and others).

- This observation is countersigned by 7 no persons.
- The rear garden of the site backs onto the rear gardens of the observers’ properties.
- St Joseph’s (the subject site) is on an incline and visible from all the dwellings.
- The proposed development is too large for the site and contravenes Objective DM39.
- The proposal will be more dominant as the ground levels will increase.
- The large window will look down over the rear gardens and impact the resident’s enjoyment.

- The architecture is not in keeping with the surrounding dwellings which all have pitched roofs
- The flat roof is at odds with the houses in the vicinity and not in compliance with Objective PM44.
- The prefabricated materials are at odds with the character of the area.

6.5. Further Responses

None received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Design of the Dwelling and Impact on the Visual Amenity
- Impact on Residential Amenity
- Appropriate Assessment.

Principle of Development

Zoning

7.2. The proposed development is located on lands zoned with the objective “RS” which seeks to “Provide for residential development and protect and improve residential amenity” in the in the Fingal County Development Plan 2017 – 2023. The proposed development is compatible in principle with this zoning objective.

Procedure

7.3. An observation submitted to the appeal has raised concern in relation to the address referred to in the PA first reason for refusal and also the absence of sufficient details on the submitted site layout plans.

7.4. In relation to the address of the site, I note the house is called “St Joseph’s” as per the development address and it is located off The Hill. The first reason for refusal also references the site as The Hill. The observer (resident within the northern property) contends that the site is located on Church Road. I note from the Ordnance

Survey maps submitted with the application the main public road to the front of the site is called The Hill. In this regard I consider the development address and reference to the surrounding area in the PA reason for refusal acceptable.

- 7.5. In relation to the submitted site layout plan, the observer considers the location of the extension of that property to the north of the site is not fully reflected. I note the information contained within Dwg No. 2020-52-P2-100 reflects the layout of all dwellings as presented in the OS maps. Article 22 (content of planning applications generally) and Article 23 (requirement for plans, drawings, maps referred to in article 22) of the Planning and Development Regulations, 2001 (as amended) require that the application provides sufficient information necessary to describe the works with the main features of any buildings which would be contiguous (Article 23 (a) (d)).
- 7.6. Whilst the rear extension of the property to the north is not illustrated on the site layout map, other documentation such as the Daylight Analysis & Overshadowing study and contextual elevations clearly illustrating that property to the north and the extension. Although the validation of the application can be regarded as a matter for the PA, it is my opinion that, following a site inspection, the documentation is representative of the current situation and is sufficient to undertake an assessment of the proposed development.

Conclusion

- 7.7. Overall, it is my opinion that the principle of development is acceptable on the site, subject to subject to compliance with development management criteria set out in the Fingal County Development Plan, further detailed below.

Design of the Dwelling and Impact on the Visual Amenity

Introduction

- 7.8. The current dwelling comprises of a modest dormer style dwelling (c.216m²) set within a large plot with private parking and front and rear gardens. The surrounding area is characterised by large, detached dwellings set within individual plots also with private parking and front and rear gardens. The dwellings adjoining the site (north and south) comprise of large two storey dwellings, traditional in design in so far as they have a similar elevational treatment and include a pitch roof profile.

- 7.9. The proposed development comprises of the demolition of the dormer bungalow and replacement with a contemporary dwelling. The new dwelling includes two storeys, over basement (c. 619m²) and in rectangular in form with a flat roof.
- 7.10. The PA first reason for refusal relates to the impact of the proposed development on the character of the surrounding area, where it is considered, the design would be visually dominant and incongruous within the streetscape of The Hill. Specific reference to Objectives PM44, PM45, DMS39 and DMS44 of the development plan are included in the reason for refusal, as is reference to the building line.
- 7.11. The grounds of appeal argue that a precedent for similar style dwellings (contemporary) have been granted in the vicinity by Fingal County Council and the Board. It is not considered that these contemporary dwellings, or the proposed development, would have a negative impact on the streetscape having regard to the characteristics of the site and character of the surrounding area.
- 7.12. Three no observations have been received to the grounds of appeal, including the residents of the property to the north of the site. The observation received from the occupants of the property to the north has been prepared by a Planning Consultant. All of the observations argue that the reasons for refusal should be upheld as the proposal is not in keeping with the characteristics of the area.
- 7.13. I have addressed the issues raised within the grounds of appeal and by the observers separately below.

Building Line

- 7.14. The reason for refusal notes the building line along The Hill. I note this building line along The Hill is not uniform. The building line of the new house is generally in line with the existing house and adjoining dwellings at either site (north and south). I note the front porch protrudes slightly forward from the building line of the adjoining property to the north (c.2m). It is my opinion that overall, the building line is in keeping with those along The Hill. Should the Board consider the porch protrudes excessively in front of the building line a condition to remove this feature could be reasonably included in any grant of permission and would not have a significant impact on the overall design of the front elevation of the proposed dwelling.

Design and Layout and Objectives in the development plan.

- 7.15. As stated above, Objectives PM44, PM45, DMS39 and DMS44 are noted in the first reason for refusal. The area planner's report noted that a traditional form of design would be more appropriate. An additional information request stated that although a modern design approach was not to be discouraged and more traditional form was required. I note the applicant did not submit an amended design in response to the additional information request.
- 7.16. I have considered fully those objectives in the development plan which provide guidance for infill development and/or replacement dwellings such as the proposed development. Objective DMS44 requires the protection of any unique identified residential character of an area, Objective DMS39 requires infill to respect the height and massing of existing residential units, Objective PM45 promotes contemporary and innovative design which respects the character and architectural heritage of the area and Objective PM44 promotes infill subject to the character of the area being protected.
- 7.17. In relation to the characteristics of the immediate and wider area, I note there is a variety of house types and designs, the majority of these are large two storey dwellings set within private grounds. The site is not within an Architectural Conservation Area, and I note the planner's report does not make any specific reference to any sensitive characteristics in the general area. Upon site inspection I noted a number of contemporary style dwellings located further south along The Hill, which I do not consider had a significant negative impact on the streetscape.
- 7.18. As stated above, the report of the planner did not consider the contemporary design was unacceptable rather a more traditional form was required. Overall, I consider the design and layout, including the contemporary design, is not precluded by any policies of the development plan. I consider the objectives of the plan in relation to infill, and residential development specifically allows for more innovative designs where the character of the area is being protected. I note the contextual elevations submitted illustrate that overall height and massing of the dwelling is in line with those adjoining dwellings and I consider the positioning of the dwelling set back from the road, with private access and front parking respects the character of those other

dwelling along The Hill. The impact on visual amenity of the streetscape is further discussed below.

- 7.19. Having regard to my assessment above, in which I concluded that the design and layout is appropriate to the site and further discussion below in relation to the impact on the streetscape, I consider overall, the proposal complies with the policies and objectives of the development plan specifically Objectives PM44, PM45, DMS39 and DMS44.

Impact on Visual Amenity

- 7.20. The first reason for refusal specifically references the dominance of the design which the PA consider will be visually dominant and incongruous within the streetscape along this section of The Hill. The observations submitted also argue that the proposal is incongruous with the streetscape.
- 7.21. In terms of sensitivity of the site I note that the proposed development is not located within an ACA although is within an area identified as the coastal landscape character area in the Fingal County Development Plan 2017-2023. The grounds of appeal note those policies relating to the landscape character can be complied with as the proposal respects the topography etc of the site.
- 7.22. As stated above, it is my opinion that the objectives of the development plan do not preclude a contemporary design at locations such as this site, subject to assessment of the impact on the residential character of the area. Those objectives of the plan for appropriate infill development are also similar to the objectives for development within a coastal landscape area, where the character of the site is reflected in a proposal.
- 7.23. The Urban Design Manual (2009) includes 12 criteria which should be used as indicators to assess appropriate residential development. In relation to the context (how the development responds to its surroundings) reference to the scale and massing and response to surrounding buildings and or landscaping. This national guidance states that contemporary buildings and innovative solutions, "*once considerate of context can offer variety to the existing built form*". I note the proposal is accompanied by contextual drawings which, in my opinion, illustrate that the overall massing and scale of the building is similar to those existing properties to the north and south. The ridge height of the proposed dwelling (37.7m) is generally in

line with the dwelling to be demolished (37.64m) and is lower than the adjoining dwelling to the north (39.15m) and the dwelling to the south (38.05m). In addition, it is of note that The Hill is characterised by large, detached dwellings set within individual sites.

- 7.24. I note the planning application was also accompanied by a Photomontage document. The existing and proposed views from 3 no locations are included. The photomontages include the new entrance and proposed planting along the front boundary. These photomontages indicate that the new dwelling will not be visible from the immediate vicinity. The observations submitted consider the retention of trees/hedgerows along the front boundary should not be considered a crucial factor in the determination of the proposal. In this regard, the Board should note that criteria 1 of the Urban Design Manual also provides reference to the landscaping as impacting the surrounding area (further discussed below). Therefore, I consider the landscaping is important in ensuring the proposed development integrates into the character of the area. I have addressed this point in detail below.
- 7.25. Overall, I consider the proposed dwelling has been designed to consider the characteristics of the site and surrounding area. Whilst the design of the dwelling is not the same as adjoining dwellings, I do not consider the inclusion of this contemporary design will have any significant negative impacts or dominate the streetscape along this section of The Hill.

Vehicular access and boundary treatment

- 7.26. The proposed development includes the removal of two vehicular entrances into the site, replacement with one entrance and additional planting along the front boundary. I note neither the Transport Section, nor any third parties raised any concern in relation to these works. The grounds of appeal make reference to the level of planting along the front of the site. Observations to the appeal do not consider these works and/or landscaping a critical determination in the assessment. I note the reduction in the two vehicular access points allows for a greater amount of screening and planting along the front boundary.
- 7.27. The applicants submitted visual assessment/ photomontage, highlights the screening of the proposed dwelling on approach from the south, along The Hill. This is mainly due to the enhanced planting scheme along the front boundary. The tree removal

and Arboricultural Report list c.8 trees for removal along the front boundary. The Landscaping plan includes 6 no. new semi mature trees, the retention of one Category B trees and additional hedgerow planting. I note the planting includes a mix of native and non-native trees and hedging (Silver Birch, Scots Pine, Laurel hedging). Which I appreciate the non-native mix may provide a greater level of screening along the front of the site, it is my opinion that a native planting mix can achieved similar results. I note the report of the Parks and Green Infrastructure had no objection to the tree removal or landscaping subject to compliance with the recommendations of the Arboricultural Method Statement and replacement of the Laurel hedgerow with native planting. In this regard, I recommend that in the event the Board grants permission, a condition to plant semi-mature trees and hedging along the front boundary would allow sufficient screening and provide ecological benefits.

- 7.28. In addition to the above, I note the Transport Section has requested that the school signage to the front of the site will be impacts by the new entrance location and should be relocated. I consider a condition to comply with the Transport Section requirements is reasonable.

Conclusion

- 7.29. Therefore, having regard to the topography of the site and the surrounding area, the overall height and massing of the proposed development, the new vehicular entrance and landscaping along the front boundary and the national and local objectives in relation to infill residential developmetn, it is my opinion that the contemporary design will not have a significant negative visual impact on the surrounding area and the streetscape along this section of The Hill.

Impact on the Residential Amenity

Introduction

- 7.30. The proposal includes a basement level, a ground floor with additional extension to the rear and first floor for bedrooms. The ground levels of the site slope gently from south to north and the subject site and associated dwelling are elevated in comparison to the gardens of the dwellings to the west (St Margaret's Park). The second reason for refusal states that "*by reason of overall scale, mass and bulk,*

would give rise to significant levels of overbearance upon the property located to the north and as such would seriously injure the amenities of the property in the vicinity”

- 7.31. Two of the observations received are from the residents in the vicinity of the site, the occupants of that property to the north and the residents of the properties to the west. Concern is raised in relation to impact of the rear extension on their residential amenity. The observation from the occupants to the north was accompanied by additional visuals to illustrate the impact of the proposal from the rear garden of their property, further discussed below.

Overbearing

- 7.32. The current rear garden slopes down from the existing dwelling to the rear of the site (west). The current dwelling has a rear patio which extends from the back of the house and because of the ground levels it is elevated over the current rear garden and adjoining sites. The rear extension of the proposed dwelling extends into the rear garden and having regard to the characteristics of the site, is elevated, higher than the existing garden. The extension is c. 18m to the west from the rear building line of the existing dwelling. The extension is 1.4m along the first c.5m and then is stepped back from the northern boundary by c. 3.4m for the remainder. The ground level at the rear of the site (ground floor extension) 30.22m.
- 7.33. I note the site survey includes the existing ground levels of the rear garden which is c. 28.89 along the northern boundary where the rear extension will be located. Having regard to the information in the application, including the site survey and the proposed ground floor levels, the increase of the rear extension will be c. 1.33m from the existing ground levels of the rear garden.
- 7.34. The observation from the property owner to the north includes independent visuals undertaken by an architect. Figure 3 includes “A perspective view of the proposed development taken at eye level in the rear garden of “Evergreen”. The Board will note Figure 3 illustrates that all the rear of the proposed dwelling (including the ground and first floor) will be visible from the rear garden of that property to the north of the site. Upon site inspection I visited the property to the north and viewed the subject site from the rear garden to the north (the observers garden). It is noted from this site inspection that the first floor of the existing dwelling was not visible and the roof pitch (rear of the dormer) of the existing dwelling only visible above the

boundary planting. The proposed ground floor location is generally in line with the ground floor of the existing dwelling. Whilst I note the ground floor extends further into the rear garden, it has been designed in such a manner that is set back from the northern boundary.

- 7.35. Having regard to the ground levels on the site, the current and proposed location of the ground floor and the existing mature landscaping along the northern boundary which is to be retained (further discussed below) I do not consider the overall design of the rear extension will be so visually dominant that it will cause a significant negative impact on the amenities of that property to the north of the site.

Overlooking

- 7.36. The proposed dwelling has been designed so that the windows are orientated to the north or west. I consider the design of the dwelling prevents any direct overlooking into the property to the north. In relation to the property to the south, I note the ground floor levels are much lower (c. 2m), the dwelling is located c. 10m from the side of the property and there is significant mature planting.
- 7.37. An observation has been submitted from the residents of those properties to the west of the site, St Margaret's Park. They note the location of the rear of the extension in comparison to their rear gardens, which they consider will now be overlooked. The rear of the existing dwelling associated patio faces west towards the rear gardens of St Margaret's Park. The proposed patio area will be located c. 11m from the rear boundary of the. This patio or windows of the proposed extension face directly onto any existing dwelling, and I consider are located at a distance from the rear gardens of St Margaret's where there will be no direct overlooking.

Overshadowing

- 7.38. A Daylight Analysis and Overshadowing report accompanied the application. The report assessed the impact on the shadows cast on the neighbouring amenity areas and concluded that the proposal could meet the BRE guidance level. No issues were raised by the PA or the observers in relation to overshadowing from the proposed development.
- 7.39. I note the information contained within the daylight and overshadowing analysis. The assessment is based on a 3D computer generated model. I note the overall design

of the model is set slightly forward to floor plans and site layout plan submitted although I do not consider there is a significant deviation to the general design and layout of the proposed dwelling. I note the orientation of the site, the height of the proposed rear extension and the ground floor levels of the rear garden, and I do not consider the proposal will cause any significant overshadowing on the rear garden or dwelling of the property to the north.

Construction Works

- 7.40. As stated above, the proposal includes a basement. The drawings illustrate the existing and proposed levels, and the Engineering Report provides details for the excavation. Drwg No. 218081-1 includes design details for the retaining wall with a possible location of a temporary piling wall along the north and the south of the site. I note the location to the north overlaps onto the location of the existing hedge/ boundary to be retained along the north. I consider this landscaping provides an appropriate barrier between the two sites and having regard to the location to the property to the north, I consider the final location for the temporary piling should be in a location which will allow the protection of the landscaping. I consider a condition requiring the exact location and protection of the boundary treatment can be reasonably included in any grant of permission and would not significantly alter the design or have any significant impact on any third party.
- 7.41. Concern was raised in the observation in relation to the impact of the construction on the residential amenity. I note the proposal includes excavation although I consider this will be short term and limited to construction activities. A standard construction condition can restrict the duration of these activities. Having regard to the inclusion of excavation I recommend that a Construction Management Plan is submitted to the PA for agreement prior to the commencement of any development. This would ensure that any soil removal, construction traffic and waste management is agreed with the PA.
- 7.42. Overall, I do not consider any of the construction activities associated with the proposed development would have a significant negative impact on the amenities of those residents in the vicinity of the site.

Conclusion

7.43. Therefore, having regard to the ground levels and characteristics of the site and the overall design of the proposed development, in particular the rear extension, it is my opinion that whilst the rear extension will be visible from the rear garden of that property to the north, it will not be so dominant that it will have a significant negative impact on the residential amenities of the occupants of the dwelling.

Appropriate Assessment (AA)

7.44. The site is located c. 600m to the southeast of the Malahide Estuary SPA (site code: 004025), and the Malahide Estuary SAC (site code: 000205). The qualifying interest of both European Sites are listed below.

European Site and code	Qualifying Interests/ Species	Conservation Objective
Malahide Estuary SAC (000205)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	To maintain the favourable conservation condition of the wetland habitat in Malahide.
Malahide Estuary SPA (004025)	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p>	To maintain the favourable conservation condition of the species listed and the wetland habitat in Malahide.

	Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]	
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7.45. The PA undertook a screening assessment for AA which noted the location of the site from the European Sites listed above and the absence of any realistic pathway between the site and these or any other European sites.

7.46. The site is not located within or directly or indirectly connected to any European Sites. The site is located within a built-up area and the proposed development includes the demolition of an existing dwelling and construction of a new dwelling where the existing services will be used. Having regard to the nature and scale of the proposed development, the information on the file and the nature of the receiving environment, no appropriate assessment issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European Site.

8.0 Recommendation

8.1. I recommend a **grant** of planning permission for the reasons and considerations and subject to the conditions set out below

9.0 Reasons and Considerations

9.1. The proposed development comprises of a replacement house on a site which is zoned to provide for residential development where it is an objective to protect and

improve residential amenity in the Fingal County Development Plan 2017-2023. Having regard to the existing use of the site, the overall design of the proposed dwelling which has regard to the characteristics of the site, the surrounding area and the quality of the contemporary design proposed including its height, finishes and massing, subject to compliance with the conditions set out below it is considered that the proposed development will not seriously injure the visual or residential amenity of the area or of property in vicinity and will otherwise accord with the provisions of the County Development Plan. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed 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. 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The “possible location of the temporary piling” as illustrated on Drwg no 218081-1 shall be located in such a manner that the mature hedging along the northern boundary of the site is retained.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity</p>

3.	<p>The works required for the new access, including turning bays, junctions, parking areas, footpaths and kerbs, car parking and relocation of school signage shall be in accordance with the detailed standards of the planning authority for such works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
4.	<p>The site shall be landscaped in accordance with the submitted Landscape Plan, subject to further changes required below of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) Contoured drawings to scale of not less than [1:500] showing –</p> <p>(i) a continuous hedge of indigenous species (e.g. holly, hawthorn, beech or field maple) planted for the full length of the front boundary;</p> <p>(ii) the establishment of predominantly native and naturalised planting incorporating species, variety, size, type, number and location of all trees and shrubs</p> <p>(iii) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials;</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment;</p> <p>(c) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established;</p> <p>(d) A timescale for implementation including details of phasing, which shall provide for the planting of all areas to be completed before the dwelling/building is first made available for occupation;</p>

	<p>Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of visual amenity</p>
5.	<p>Details of the materials, colours and textures of all the external finishes of the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>

	<p>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>
9.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
10.	<p>Prior to the commencement of development, the developer shall enter into a water connection agreement with Irish Water.</p> <p>Reason: In the interest of public health.</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 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</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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Karen Hamilton
Senior Planning Inspector

07th of March 2022