



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312419-22

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<b>Development</b>	Extension to existing dwelling and associated works.
<b>Location</b>	No. 24 Yellow Walls Road, Malahide, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F21A/0557.
<b>Applicant(s)</b>	David & Rosaleen Torpey.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	David & Rosaleen Torpey.
<b>Observer(s)</b>	1. Stephen & Orla Craig. 2. Gil & Maria Bernadez.
<b>Date of Site Inspection</b>	15 <sup>th</sup> day of August, 2022.
<b>Inspector</b>	Patricia-Marie Young

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## 1.0 Site Location and Description

- 1.1. No. 24 Yellow Walls Road, has a stated 730m<sup>2</sup> site area, on which is a single storey detached bungalow and a detached single storey garage structure that is setback from the southern roadside of Yellow Walls Road, c315m to the north west of Yellow Walls junction with the Dublin Road, c356m to the south east of Yellow Walls junction with Millview Road and under 0.8km as the bird would to the heart of Malahide town centre, in north County Dublin.
- 1.2. The site rises steeply from the public road carriage and pedestrian pathway of Yellow Walls Road with the detached bungalow having a ground floor level that is 2.35m higher. The front garden area is overgrown and unkempt. A low solid wall with hedge behind runs along the roadside boundary. The vehicular entrance is located on the eastern end of the roadside boundary and is flanked by two solid capped pillars. The topography of the site together with the roadside boundaries are such that sightlines onto the public domain of Yellow Walls Road are restricted in both directions.
- 1.3. To the rear of the dwelling the site levels level off and start to fall towards the rear boundary. Located at a setback from the rear elevation of the detached bungalow is the detached mono-pitched garage. This is accessed via a tarmac vehicle driveway. A later of poor construction and partially sunroom collapsed is attached to the rear elevation. The rear garden area is overgrown and unkempt. The rear boundaries consist of a mixture of hedge planting and in places concrete walls.
- 1.4. The site forms part of a predominantly residential suburban area with Yellow Walls Road being characterised by a mixture of single to two storey dwellings of different architectural designs, periods through to built form. Of note however, No. 24 Yellow Walls Road forms part of a group of three detached bungalows on the western side of this road. A number of detached originally single storey detached dwellings on this side of Yellow Walls Road have been subject to significant alterations and additions including the addition of dormer and second floor levels.
- 1.5. The adjoining roadside edge of Yellow Walls Road contains double yellow lines that extend in a northerly and southerly direction. This stretch of road has a posted speed limit of 50kmph and at the time of inspection Yellow Walls Road was heavily trafficked. This road accommodates a number of Dublin Bus Routes and contains stops along its length.

## 2.0 Proposed Development

2.1. Planning permission is sought for the extension of an existing dwelling to the north, south and east with new bedroom accommodation at first floor level, new vehicular entrance off Yellow Walls Road, lowered driveway, single storey amenity shed in rear garden, new boundary walls, associated drainage, hard and soft landscaping together with all associated site works and services. This application includes but is not limited to the following documents:

- A letter from the Applicants to the Planning Authority.
- A Design Statement.

2.2. According to the accompanying planning application the gross floor space of existing buildings on site is 118m<sup>2</sup>; the gross floor area of the garage structure for which demolition is sought is given as 16m<sup>2</sup>; the gross floor area of space to be retained is 102m<sup>2</sup> and the gross floor space of proposed works including shed is 261m<sup>2</sup>. In addition, it indicates that the resulting dwelling would contain four bedrooms and that the four existing car parking spaces would be maintained.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 6<sup>th</sup> day of December, 2021, the Planning Authority refused permission for the following stated reasons:

- “1. In its current form the proposed development does not comply with Objectives PM45, and DMS44 of the Fingal Development Plan 2017-2023, does not respect the established building height along Yellow Walls Road, would be out of character with the surrounding area, would be visually dominant and incongruous with the streetscape along this section of Yellow Walls Road and would therefore not be in keeping with the proper planning and sustainable development of the surrounding area.*
- 2. Having regard to the depth and width of the proposed rear dormer extensions, this element of the proposed development would be dominant upon the roof slopes of the dwelling, would contravene Objective DMS41 of the Fingal*

*Development Plan 2017-2023, would contravene the RS zoning objective for the area and as such would be contrary to the proper planning and sustainable development of the area.*

3. *The proposed development in its current form would give rise to significant levels of negative impact upon the residential amenities of the adjoining properties in terms of overshadowing and overbearance and as such would detrimental to the RS-Zoning objection and not be in keeping with the proper planning and sustainable development of the area.*
4. *The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.”*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planning Officer’s report is dated the 1<sup>st</sup> day of November, 2021 and is the basis of the Planning Authority’s decision. It includes the following comments:

- General principle of the proposed development is acceptable.
- A number of the dwellings along the same side of Yellow Walls Road have been amended in recent years. These have respected and maintained the established building height by amending the ground levels.
- The proposed dwelling would be visually obtrusive, out of character with the surrounding area and incongruous with the streetscape along Yellow Walls Road.
- The existing dwellings all maintain ridge levels which only vary slightly in their height. The proposed dwelling as amended would have a ridge height of 6.9m which is 530mm higher than the dwelling to the east and 300mm higher than the dwelling to the west. This together with the amended shape of the roof structure over would be incongruous with the pattern of development that characterises this area.

- This proposal would be out of character with the surrounding area and be visually dominant with the streetscape in a manner that would be contrary to Objective DMS44 of the Development Plan.
- The proposed rear dormer would project 8.9m from the rear roof slope and would be significantly overbearing as a result of its depth and material finish. This dormer would diminish the private amenity space of No. 22 Yellow Walls Road. It would also give rise to overshadowing for prolonged periods of the day.
- The separation distance with No. 22 Yellow Walls Road is inadequate and would undermine the requirements of Objective DMS29 of the Development Plan.
- The proposed development would contravene Objectives PM45, DMS29, DMS41 and DMS44 of the Development Plan.
- No EIAR or AA issues arise.
- Concludes with a recommendation for refusal.

### 3.2.2. Other Technical Reports

**Water:** No objection, subject to safeguards.

**Transportation:** No objection, subject to safeguards. The following comments from the Transportation Planning Section report are, however, noted:

- The proposed development is located in a 50kmph speed limit.
- Yellow Walls Road is a bus route and therefore a safe stopping distance of 49m should be provided at a 2m setback. This can be achieved at the dwelling in both directions to the nearside road edge.
- Any boundary treatment should not exceed 900mm in height and the proposed driveway entrance should not exceed 4m in its width.
- There is no intensification in use.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

- 3.4.1. Three 3<sup>rd</sup> Party submissions were submitted to the Planning Authority during the course of its determination. The substantive issues raised correlate with those raised by the 3<sup>rd</sup> Party Observers in this appeal case. I also note that one of the submissions objecting to the proposed development on the basis of adverse residential amenity on their property is the adjoining property to the rear and this submission raises concern that the applicants have incorrectly depicted the rear boundary treatment with their property and raise concern in relation to the structure proposed to the rear of the site in terms of its height, built form, lack of adequate setback, light pollution, nuisance arising from the use of this building, the excessive scale of this building, through to the potential of this structure to be used as a separate habitable unit. It is also sought that any permission condition the provision of swift boxes.

## 4.0 Planning History

### 4.1. Site

- 4.1.1. None.

### 4.2. Setting (Recent)

- 4.2.1. **ABP-305697-19 (P.A. Ref. No. F19A/0333) – No. 31 Yellow Walls Road.**

On appeal to the Board permission was **granted** for a development consisting of: (a) Partial demolition of the existing residential structure to rear and side and demolition of existing storage sheds to the rear; (b) Extension and alterations to existing residential house to include new fenestration; (c) The construction of a two-storey hipped roof extension to the side of the existing residential house; (d) The construction of a two-storey flat roof extension to the rear of the existing residence; (e) Provision of velux type rooflight windows; (f) Replacement and relocation of the existing piers and gate to facilitate wider driveway entrance and provision of a new gate and dropped kerb to public footpath; (g) All associated site works including tree removal to front garden; and, all associated site works.

Decision date: 22<sup>nd</sup> day of January, 2020.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, are applicable. The site lies within an area zoned 'RS' which has a stated aim to: "*provide for residential development and protect and improve residential amenity*".

5.1.2. Chapter 3.4 (Sustainable Design Standards) of the Plan is relevant, including the following extracts:

- **Extensions to Dwellings:** The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- **Objective DMS28:** This requires generally that a minimum 22m separation distance between directly opposing rear first floor windows be observed unless alternative provision has been designed to ensure privacy.
- **Objective DMS29:** This seeks to ensure a separation distance of at least 2.3m is provided between the side walls of detached, semi-detached, and end-of-terrace units.
- **Objective DMS41:** states: "*dormer extensions to roofs will only be considered where there is no negative impact on the existing character and form, and the privacy of adjacent properties. Dormer extensions shall not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house and shall not be higher than the existing ridge height of the house.*"
- **Objective DMS44:** Seeks to protect areas with unique, identified character which provide a sense of place to an area through design and ensure that any new development respects this distinctive character.
- **Objective DMS42:** Encourage more innovative design approaches for domestic extensions.
- **Objective PM46:** Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.



- 5.1.3. Chapter 12 sets out Development Management Standards for residential development.
- 5.1.4. Chapter 12 of the Development Plan states that: *“dormer extensions to roofs will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions (whether for functional roof space or light access) shall generally not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house, but in all cases no dormer extension shall be higher than the existing ridge height of the house.”*
- 5.1.5. The site is located within Noise Zone D associated with Dublin Airport.

## 5.2. Natural Heritage Designations

- 5.2.1. The site is not located with a designated Natura 2000 site, nor does it adjoin such a site. The nearest Natura sites are Malahide Estuary SAC (Site Code: 000205) which is located c436m to the north west of the site and Malahide Estuary SPA (Site Code: 004025) which is located c523m to the north at their nearest points.

## 5.3. EIA Screening

- 5.3.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the Planning and Development Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.

# 6.0 The Appeal

## 6.1. Grounds of Appeal

- 6.1.1. The 1<sup>st</sup> Party grounds of appeal can be summarised as follows:
- Whilst the property is habitable it is in poor condition, with rising damp, no insulation and very poor energy efficiency.
  - The existing building on site lacks any architectural or conservation merit.

- There is mature planting to the rear of the site that bounds No. 151 Árd na Mara.
- The existing dwelling on site rises to a height of 6.2m above existing ground levels.
- It is proposed to retain the western elevation wall. This wall abuts the boundary with No. 26 Yellow Walls Road. The eastern elevation to No. 26 is set off the boundary with No. 24 by 2.5m. The gap between the modified dwelling and No. 22 Yellow Walls Road would be reduced to 1075mm so that bins can be brought to the front.
- It is proposed to demolish the existing garage structure which forms part of the eastern boundary shared with No. 22 Yellow Walls.
- In relation to the Planning Authority's first reason for refusal it incorrectly refers to Objective PM45 which is not relevant to this proposed development. It is argued that this applies to infill, corner, and backland sites. Therefore, it is not appropriate, and it is further contended that Yellow Walls Road has no particular character and architectural heritage that would require compliance with this Development Plan objective.
- Reference is made to Development Plan Objective PM46.
- Development Plan Objective PM44 is directed towards new residential development in areas of unique and distinctive character. Yellow Walls Road does not have a unique and distinctive character.
- This proposal would not be out of place, it would not be visually dominant or incongruous to Yellow Walls Road due to the sensitive, measured and balanced approach taken to the design.
- The proposed development would add character whilst respecting the residential amenities of surrounding dwellings.
- The lateral separation distance of 1075mm is not out of character with other properties in the area.
- There is a range of building heights and roof profiles present along Yellow Walls Road.

- It is proposed to reduce the ground level by 350mm to accommodate the development. In this context the proposed ridge height would be 6.33m above the existing ground floor level.
- It is not accepted that the Planning Authority under their first reason for refusal correctly applied Development Plan objectives PM45 and DMS44.
- In relation to the second reason for refusal which relates to the rear dormer extension, it is reiterated that Yellow Walls Road is of no particular merit or distinctive character.
- The purpose of Development Plan objective DMS41 is to avoid the type of dormer that is visually out of scale with the remainder of the property. In relation to this proposal the dormer is designed to be an integral part of the dwelling's extension. It is further not accepted that they dominate the proposed new roof structure. These dormers do not serve attic space but rather they serve a first-floor habitable level.
- In relation to the third reason for refusal a sun-path diagram is provided which shows that there would be no prospect of the proposed development having any material impact on the residential amenities of adjacent dwellings.
- It is not accepted that there is any prospect for harm of residential amenities for properties in its vicinity from the proposed development.
- There are no grounds to support the Planning Authority's fourth reason for refusal as it is well established that all application should be dealt with on their own merit.
- This proposal provides a family dwelling suited to modern-day accommodation needs, allows natural light to penetrate the building and would give rise to a dwelling with provisional BER outcome of A3.
- This application accords with Development Plan objective DMS42 which encourages more innovative design approaches for domestic extensions.
- The existing driveway accommodates 6 car parking spaces parked along the driveway on the eastern side of the dwelling. This proposal would reduce on site parking to 4 and the proposed new entrance would improve visibility between the

entrance of the property and the footpath. In addition, the design would allow for cars to enter and exit the property in forward gear.

- Planning compliance concerns are raised in relation to No. 26 Yellow Walls Road.
- There is no evidence to support that the proposed development would give rise to the devaluation of property in its vicinity.

## **6.2. Planning Authority Response**

6.2.1. On the 27<sup>th</sup> day of January, 2022, the Board received the Planning Authority's response. It can be summarised as follows:

- No further comment to make.
- The Board is requested to uphold its decision and refuse permission.
- In the event that this appeal is successful a Section 48 financial contribution condition should be imposed.

## **6.3. Observations**

6.3.1. During the course of the Boards determination of this appeal case the Board received two 3<sup>rd</sup> Party observations. These are summarised separately below.

6.3.2. On the 4<sup>th</sup> day of February, 2022, the Board received an observation from Stephen & Orla Craig, of No. 26 Yellow Walls Road, a property which adjoins the north western boundary of the appeal site. This observation can be summarised as follows:

- In relation to Objective PM45 and Objective PM46 of the Development Plan there are objections from all three adjoining properties in relation to the negative impacts and environmental issues in relation to the proposed development. It is considered that in this case the Planning Authority were correct to raise concerns that the proposed development was contrary to the said Development Plan objectives.
- Concerns are raised that the proposed development would give rise to diminished levels of daylight, sunlight and would give rise to overshadowing of their property. In addition, if permitted, the proposed development would be visually overbearing and would give rise to overlooking.

- Concerns are raised in relation to the adequacy of the shadow study submitted by the appellants.
- The dormer extensions dominate the elevations of the proposed development. They result in the ridge line being exceeded and the roof structure being completely altered.
- The most sustainable solution would be to renovate the existing dwelling rather than proposing a full demolition and rebuild.
- The letters of support provided by the appellant are commercially motivated and these are from property owners that would be impacted by the proposed development.
- The hobby and craft shed which has been designed as habitable accommodation has not been adequately addressed and it is requested that this is refused.
- Access of the gable wall of No. 24 which forms part of the driveway of No. 26 has not been addressed.
- The observers have not consented to any amendments or modifications to their boundaries.
- The height of the proposed development is 2.5 times higher, and the floor area is 3.5 times bigger than that of the existing dwelling. This is unnecessary and has not been addressed.
- The concerns in relation to the flat roof terrace has not been addressed.
- The proposed development would overlook their patio area.
- The existing front boundary wall is not a party wall, and it is contended to be in their ownership.
- The observer's submission is accompanied by a report prepared by oc+c architects which further reiterates the concerns raised. It also makes the following comments:
  - This proposal seeks that the existing dwelling be demolished in almost its entirety and its rebuilding. It should therefore be considered on that basis.
  - The drawings indicate that a number of additional structures such as rooflights, PV Panels and the like would be located at roof level of the proposed development.

Yet these structures are not indicated in the submitted drawings. These structures are likely to give rise to additional height of the building.

- The proposed development due to its height, bulk, massing, and extent would constitute overdevelopment of the site and would create a development that would be incongruous with its streetscape setting.
- The applicant has not demonstrated that the additional height and massing at the boundary would not give rise to overbearing and overshadowing of No. 26 despite this being one of the reasons for refusal.
- There will be significant loading on the limited walls that would remain, and it is highly unlikely that these would be retained. Therefore, this proposal should be addressed on the basis that the existing dwelling will be demolished and replaced. The public notices should reflect this.
- The proposed structure would be significantly higher than adjoining properties of No.s 24 and 26 Yellow Walls Road. It would be overbearing and out of context.
- It is unclear how the demolition/reconstruction of the existing party wall will be managed without significant impacts on No. 26 Yellow Walls Road. The proposed development would require access to both No.s 24 and 26 Yellow Walls Road.
- This proposal seeks to significantly lower the levels to the front of No. 24 Yellow Walls Road to accommodate a large number of car parking spaces. This together with the replacement of the front wall will give rise to significant impact on the streetscape of Yellow Walls Road.
- The existing boundary wall between No. 24 and No. 26 Yellow Walls Road is in the observer's ownership.
- The flat roof to the rear is accessible from the bedrooms and may possibly be used as a roof terrace. Any roof terrace would give rise to direct overlooking of the observer's property and would add to the visual overbearing impacts of the proposed development. Its use as a terrace would also give rise to additional noise intrusion. Any grant of permission should condition that this space be not used as a terrace.
- The use of the Garden/Hobby & Craft Shed should be clarified.

- This proposal will give rise to a number of significant and negative impacts for the existing residents of No. 26 Yellow Walls Road and on this basis, it is contrary to the proper planning and sustainable development of the area.

6.3.3. On the 7<sup>th</sup> day of February, 2022, the Board received an observation from Gil & Maria Bernardez, of No. 22 Yellow Walls Road, a property which adjoins the south eastern boundary of the appeal site. This observation can be summarised as follows:

- The decision of the Planning Authority is supported, and it is requested that the Board uphold this decision.
- This proposal fails to respect the established building height along Yellow Walls Road.
- The proposed development is out of character with the surrounding area, would be visually dominant and incongruous within its streetscape scene.
- The depth and width of the dormer extensions would be visually dominant in a manner that would be contrary to Objective DMS41 of the Development Plan and would be contrary to the 'RS' zoning of the site.
- The proposed development would seriously injure residential amenity and privacy of the observer's property and would seriously injure the visual amenities of its streetscape setting.
- Due to the proximity of the applicant's property to the site and having regards to the nature of the development sought it is contended that their property would be the most significantly impacted by it.
- Reference is made to the alterations permitted to the adjoining property of No. 26 Yellow Walls under the grant of permission P.A. Ref. No. F02B/0211, which is contended to have been a similar style and height property, allowed only minor increase in the height of its central ridge in order to facilitate additional living space at first floor level.
- Reference is made to No. 20 Yellow Walls Road which has been redeveloped but reads as a single storey due to reducing the site levels.
- Concern is raised that the public notices do not accurately describe the proposed development sought.

- The dwelling sought is 300m<sup>2</sup> and this does not include the rear garden room which would result in an additional 71m<sup>2</sup>. The existing dwelling has a floor area of 118m<sup>2</sup>.
- The proposed shed is excessive in its scale, form, and footprint in comparison to the existing.
- The design provides little separation distance between their property and the proposed development, with the replacement dwelling having a 1m separation distance and the replacement dwelling effectively extending along the length of the eastern boundary. Of additional concern the first-floor level extends 4.7m beyond the rear elevation of the observer's property.
- The first-floor level at 6.55m high and set on ground levels that are 0.4m higher than the observer's property would be overbearing.
- The nature, extent, and scale of the works could structurally compromise the observer's property.
- Having regard to the four reasons of refusal given by the Planning Authority with regards to the proposed development it is contended that there is no ground upon which this development can be granted.
- This development would result in a severe loss of residential and visual amenity due to the scale of the proposal.
- If permitted it would be visually overbearing, dominant and result in a loss of privacy for the observer's property.
- It is respectfully submitted that the Planning Officer intended to refer to Objective PM46 rather than Objective PM45 in their assessment and in reason No. 1 of refusal. This is based on the fact Objective PM45 relates to new residential dwellings. This proposal does not comply with Objective PM46 which seeks that extensions are designed in such a manner that do not negatively impact on the environment or on adjoining properties in the area.
- This proposal constituted overdevelopment of the site.
- The appellants argument that this area does not have any particular character is not accepted. It is contended that the character of Yellow Walls Road arises from its existing detached dwellings on generous plots. It is reasonable for new



development within this area to have regard to the established residential character.

- It is requested that the Board disregard the appellants contentions that Development Plan Objective DMS28 only relates to new developments. This is not the case.
- Development Objective DM29 is of relevance as this requires that a separation distance of at least 2.3m is provided between the side wall of detached, semi-detached and end of terrace units. This development would reduce the distance between No. 22 Yellow Walls Road and the appeal site from 2.5m (wall to wall) to 1m. The purpose of the said objective is to allow adequate maintenance and access as well as to avoid extensions being built on side boundaries. There is no precedence for this limited separation distance within its streetscape scene.
- The proposed development is excessive in its scale, form, mass, and bulk at this location.
- Hipped roofs are also characteristic of built forms in this streetscape scene. This proposal roof structure would be at odds with its setting. Objective DMS39 requires new development to respect the height and massing of existing residential dwellings. This proposal does not take into account neighbouring dwellings to it in the design resolution proposed.
- Concern that the proposed development would, if permitted, give rise to overshadowing.
- The overshadowing study provided with the appeal is not accurate and lack legibility. Based on the deficiencies of the study the Board does not have sufficient information to determine with confidence that the proposed development would not result in overshadowing and loss of light to the observer's property.
- The observer's property to the rear is not overlooked and this proposed development, if permitted, would change this established amenity.
- The Planning Authority's concerns that the proposed development, if permitted, would give rise to precedent for other similar developments is supported.

- There is no justification in the appellants argument that this proposal would reduce car parking spaces from 6 to 4.
- This proposal seeks to exceed the car parking provision for a single dwelling.
- The Board is requested to uphold the Planning Authority's refusal of permission.

## 7.0 Assessment

### 7.1. Introduction

- 7.1.1. This is a First Party appeal which is made only against the Planning Authority's decision to refuse planning permission for a development described as consisting of the extension of an existing dwelling to the north, south and east with new bedroom accommodation at first floor level, new vehicular access off Yellow Walls Road, a lowered driveway, a single storey shed in the rear garden, new boundary walls, hard and soft landscaping and associated drainage works at No. 24 Yellow Walls Road.
- 7.1.2. The subject property is a single storey detached dwelling house with a detached garage that adjoins part of the eastern boundary of the site and is accessed by a driveway that opens onto the pedestrian footpath on the southern side of Yellow Walls Road that adjoins the site. The site and the buildings thereon appeared unkempt the existing dwelling appeared to be vacant.
- 7.1.3. The site forms part of a larger suburban area zoned 'RS' under the Development Plan. The land use zoning objective for such land is to "*provide for residential development and protect and improve residential amenity*". I also note that the zoning vision for 'RS' zoned land is to: "*ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity*". Residential development is permitted in principle in this land zone use zone, subject to safeguards.
- 7.1.4. The Planning Authority raised no objection to the principal of alterations and additions to the existing dwelling house, notwithstanding they did raise several issues in terms of the design resolution and the outcome this would have on the residential as well as visual amenities of the area. It was also considered that the proposed development, if permitted, would give rise to an undesirable precedent. These reasons for refusal are supported by the two Third Party observers in this appeal case but the appellant

on the other hands considers that the four reasons cited by the Planning Authority are without foundation and without sound basis.

7.1.5. I concur with the Planning Authority in that the general principle of an extension to an existing dwelling house and a shed structure on residential zoned land is a type of development that is acceptable, subject to safeguards. I consider that the relevant issues in determining the current application and appeal case before the Board are as follows:

- Impact on Residential Amenities.
- Impact on Visual Amenities.
- Precedent.
- Civil Matters.
- Other Matters Arising.
- Appropriate Assessment.

7.1.6. Before I commence my assessment, I firstly note to the Board that the concerns raised in relation to the adequacy of the public notices in terms of setting out a brief description of the development sought under this application. In relation to this concern, both observers in this appeal case raise concerns that it is not and that in essence what is sought under this application is a replacement dwelling given that little would remain of the building envelope with what is proposed to be retained of questionable structural adequacy to accommodate the proposed development sought.

7.1.7. Whilst validation of public notices falls under the Planning Authority's remit given the information provided with this application, I concur with the observers concerns that this proposal is essentially a replacement dwelling that utilises little of the building envelope of the existing structure, i.e., a modest portion of the southern elevation and the ground floor western wall elevation. I also consider that the application does not provide detail how this modest building in terms of its structure could accommodate without significant intervention to them in order to cater for the level of alterations and additions proposed which include a significant new first floor level. I am not satisfied based on the information provided that the limited elements of the structure that would be retained are structurally able to accommodate the nature, scale and extent of development sought under this application or that they are in themselves could be

considered as maintaining the existing dwelling in place as a host and primary structure to which an extension would be added to.

- 7.1.8. Further, the public notice description sets out that this development includes a shed structure to the rear. The documentation with this application and on appeal indicate that this structure would not function as a shed in the normal sense of what one would expect, i.e., a simple structure for storage.
- 7.1.9. Instead, the documentation indicates that this structure is a separate sizeable habitable space of 71m<sup>2</sup> with a flat roof over with a given height of 4m and a width of 13.4m. This space is shown to be served with two sets of double doors and a window in its northern elevation, a separate access door to its rear elevation, it is internally partitioned into rooms including a WC that is described as a hobby room/shed with an L-shape of counter space and a games room.
- 7.1.10. Given the overall nature, extent and scale of the actual demolition as well as interventions to the existing dwelling proposed alongside the proposed construction of what is a sizeable single storey detached structure together with the lack of clarification in the public notices of the actual function of this structure should the Board be minded to grant permission the Board, as a precaution, should seek revised public notices that provide a more accurate brief description of the development that is sought. This I consider would be appropriate in the interests of ensuring that adequate notice is given to the public of the proposed development sought at the subject site.
- 7.1.11. In relation to servicing the proposed development sought under this application. I note that there is an existing dwelling on site that is served by public mains water and drainage. The proposed development does not include any increase in dwelling unit numbers on site with the development relating to one dwelling unit. The proposed development puts forward improvements to surface water drainage and the like on site. There is also no capacity issue in the public mains drainage and water supply to accommodate the increased bed spaces at the subject site. I therefore raise no significant concerns on this matter; however, should the Board be minded to grant permission for the development I recommend that they do so with best practice conditions for servicing alongside appropriate rainwater harvesting and the other such climate resilience measures to improve the sustainability of the dwelling unit going forward.

## 7.2. Residential Amenity Impact

- 7.2.1. The observers in this appeal case have raised concerns in relation to the impact of the proposed development on their established residential amenities of their properties. These adjoin the eastern and western boundaries of the site. The main concerns relate to diminishment of residential amenity by way of overlooking, overshadowing, and overbearing impacts.
- 7.2.2. In terms of overlooking, I accept that the proposed development would give rise to a change in context for the properties that bound the eastern, western, and southern boundaries of the site due to the proposal seeking to change the existing dwelling unit on site to a two-storey dwelling unit.
- 7.2.3. The most significant impact that would arise would be from the addition of the substantive in area first floor level. The submitted drawings show that the rear first floor level as proposed would extend c8.9m from what was the original ridge of the dwelling in a southerly direction. With the first-floor rear elevation containing three significant in height and width glazed units that appear would be accessible to the flat roof area beyond. This flat roof area is not indicated in the submitted drawings as additional above amenity space for future occupants, but no clarity is provided in the submitted documents that this would not be the case.
- 7.2.4. Whilst it could be conditioned that this roof structure is not used as a private amenity space and in tandem that the window openings are revised so that they are not of a design that would provide access onto the roof space notwithstanding, of concern is the extensive dimensions of glazing sought to the rear of the proposed first floor extension. Together with the depth of the first-floor levels projection from the ridge. A ridge height and alignment that is consistent with neighbouring properties. The projection in a southerly direction at first floor level given the pattern of development that characterises the site's immediate setting is such that it would in my considered opinion give rise to significant overlooking of properties situated to the east, west and south of it.
- 7.2.5. On this point I also note to the Board that the mature planting to the south of the rear boundary is deciduous and as such would not provide robust screening throughout the year. I further note that the adjoining property to the east (Note: No. 22 Yellow Walls Road) due to the single storey built form of the existing dwelling on site, the built form

and height of the dwelling that adjoins this property to the east (No. 20 Yellow Walls Road) of it together with the topography of the site and the different orientation of the adjoining residential development of Árd Na Mara is such that its established residential amenity is one that its rear elevation and rear private amenity space is not one that is overlooked. This is not the common scenario in established suburban settings like this where overlooking is generally to be expected. I also observed during my inspection of the site that the grant of permission under P.A. Ref. No. F02B/0211 in relation to No. 26 Yellow Walls Road resulted in a dormer-built form that gave rise to increased levels of overlooking onto the rear amenity space of No. 24 Yellow Walls Road.

- 7.2.6. The context of No. 24 Yellow Walls Road is one where its existing dwelling was part of a group of similar in design hipped roofed detached bungalows that were positioned on ground levels that were over 2m above that of the public carriageway of this road and properties on the opposite side of this road. There was also a regularity in the lateral separation distance between these detached structures with this being largely maintained when these structures were subject to alterations and additions.
- 7.2.7. In this context I am of the view that a reasonable balance has not been achieved in terms of balancing the established residential amenity of the adjoining properties, in particular No. 22 Yellow Walls Road whilst at the same time accommodating additional habitable space at No. 24 Yellow Walls Road for future occupants.
- 7.2.8. Therefore, any grant of permission would in my view need for this to be significantly addressed by way of modifications to the first-floor level.
- 7.2.9. In the absence of this being addressed I am of the view that the outcome of the proposed development being implemented would be a significant diminishment in residential amenities of properties in its vicinity by way of overlooking that is over and above the existing context. Alongside in a context where the historic built form of the group of dwellings that No. 24 Yellow Walls forms part of is single storey and with the Árd na Mara properties to the rear being modest gable fronted dormer type dwellings.
- 7.2.10. In terms of overshadowing, the observers in this appeal case raise concerns that the proposed development due to its height, built form, mass through to volume would give rise to significant levels of overshadowing over and above the existing context.

- 7.2.11. The observers' properties adjoin the eastern and western boundaries of the site, and the orientation of the site is one that the rectangular shaped plot has a south westerly alignment. Given the topography of the site they also note that where first floor levels have been provided to properties on the southern side of Yellow Walls Road that these have lowered the ground levels and didn't include extensions that were as deep and wide as that proposed behind their principal ridge height.
- 7.2.12. The difference in topography on site and in relation to adjoining land including that of adjoining properties is of relevance in considering any potential overshadowing arising from the proposed development sought under this application. Combined with the given the limited ground lowering proposed to accommodate the insertion of a substantial in width and depth new first floor level.
- 7.2.13. Of further concern to them is that the documentations provided by the appellant with this appeal fail to demonstrate based on best scientific knowledge and accepted practices in examination of potential impact of the proposed development on their properties in terms of resulting overshadowing, loss of daylight and sunlight.
- 7.2.14. On this point they contend that the document provided by the appellant to address this particular concern is not sufficiently robust and is not accurate in what it depicts as existing through to resulting situation for the Board to make an informed consideration on the matter of actual overshadowing through to loss daylight impact.
- 7.2.15. In relation to the Planning Authority's notification to refuse permission, the third cited refusal reason raised concerns that the proposed development in its current form would give rise to significant levels of negative impact upon the residential amenities of the adjoining properties in terms of overshadowing. This coupled with the overbearance of the proposed development would in their view be detrimental to the 'RS' zoning objective for the site and its setting. They therefore considered that the proposed development for this reason would not be in keeping with the proper planning and sustainable development of the area.
- 7.2.16. The appellant as part of their appeal submission includes a 'Daylight and Sunlight Availability Report', dated January, 2022. This report indicates that this provides an examination of impact of the proposed extension at the subject property on the levels of daylight and sunlight availability and sunlight in the adjacent surrounding buildings.

As part of this assessment, it indicates that two separate massing models were examined.

- 7.2.17. That is to say the baseline condition which it describes as the configuration of the existing site condition at No. 24 Yellow Walls Road and surrounding properties but adapted to include the method given within Appendix F of BR 209 and the proposed condition which is described as replacing the existing site condition with the proposed extension to the subject property. It sets out that this approach complies with BR 209.
- 7.2.18. On foot of this assessment, it sets out that the only existing surrounding properties for assessment are the adjoining properties to the east and west.
- 7.2.19. I note that these are the properties of the two observers in this appeal case before the Board for its determination.
- 7.2.20. It sets out that there will be a negligible impact on all other properties in relation to the levels of sunlight and daylight as a result of the proposed extension.
- 7.2.21. The assessment examines vertical sky component (VSC), probable annual sunlight hours (PASH), sun hours on ground (SHOG) metrics and it sets out the relevant BR 209 targets for each.
- 7.2.22. In relation to the VSC, it would appear that all points of sensitivity for overshadowing on the adjoining properties to the east and west and that the degree of resulting impact is that one the windows to the rear of No. 22 Yellow Walls Road fails to meet the BR 209 target. In relation to this outcome, it is argued that the effected room benefits from has other windows that are not impacted beyond the target limits of BR 209. It further contends that these other windows are the main sources of daylight for the impacted room.
- 7.2.23. In relation to PASH it sets out that all points tested met the required target under BR 209.
- 7.2.24. In relation to SHOG the table and graphics provided appear to show that a significant area to the rear of the adjoining properties to the east and west would receive in excess of the 2 hours sunlight baseline on the 21<sup>st</sup> day of March. It is therefore contended that the impact of levels of sunlight in surrounding amenity spaces can be classified as negligible.



- 7.2.25. This examination concludes that the impact of the proposed development in terms of daylight and sunlight availability in the adjoining properties can be described as negligible.
- 7.2.26. Notwithstanding this, I note section 1.6 of BRE 209, specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy and given the orientation of the site, the juxtaposition of the adjoining residential properties and their associated private amenity space, the substantive first floor proposed, I am unclear from the assessment provided what the actual impact would be in terms of overshadowing at other key points ordinarily examined throughout the year, in relation to the properties to the east and west.
- 7.2.27. Of further concern the graphics provided in relation to the examination of SHOG are not very legible and in my view are not clear that they accurately depict the proposed development relative to an accurate depiction of its adjoining sight context.
- 7.2.28. Further, it is unclear in my view what regard was had to the different topography of the adjoining properties in terms of existing context and that as amended under the development proposed. In this regard the adjoining sites have clearly significantly different ground levels and No. 26 Yellow Walls Road has been subject to more significant ground lowering than what appears to be proposed in this application.
- 7.2.29. On the basis of the information before me I am not satisfied that the applicant has demonstrated that the extensions proposed under this application would not give rise to any undue adverse diminishment of established residential amenity by way of overshadowing.
- 7.2.30. In relation to the potential overbearing impacts on the dwelling to the north. Upon review of the documentation submitted with the application and with this First Party appeal, I would share the concerns raised by the Planning Authority and the observers who are the owners of the adjoining properties to the east and west.
- 7.2.31. In addition, I would also consider that given the boundary treatment and the deciduous nature of the screening of the property to the south I consider that overbearing impact is also a concern.
- 7.2.32. More specifically, in relation to these properties, the depth, the width, the massing, the dimensions and type of glazing to the rear first floor level elevation and with these

appearing to open onto what appears to be a roof terrace (with a height of c3.9m) over the ground floor level extension which extends a further 4.51m southwards in comparison to the first-floor level over and maintains the 12.325m width.

- 7.2.33. Further the design solution includes no effective mitigation measures to reduce the overbearing nature of the rear extension, the glazing, the potential roof terrace and the like as appreciated from adjoining and neighbouring properties in its vicinity.
- 7.2.34. In addition, the lack of lateral separation distance between the proposed amended dwelling and adjoining properties to the east as well as west in my view heightens the level of overbearing that would arise for these properties. With a minimal separation distance of 1.05m with No. 22 Yellow Walls Road to the west which is contrary to Development Plan Objective DMS29. This objective seeks to ensure a separation distance of at least 2.3m is provided between the side walls of detached units.
- 7.2.35. In relation to the resulting overbearing impact on the residential amenities of the properties in the vicinity of the proposed development I am not satisfied that this can be addressed successfully by way of condition alone. It would require in my considered opinion a more robust and effective design responsive in order to satisfactorily address this concern.
- 7.2.36. With this being said to permit the proposed development would give rise to significant overbearing impacts on adjoining properties in its vicinity in a manner that would be contrary to the 'RS' zoning of the site and its setting. This zoning objective seeks to provide a measure of protection for the residential amenities of properties and in this case, it is my view that there is no sensitive balance achieved in terms of providing a reasonable measure of safeguarding of existing and established residential amenities in this mature suburban setting and the new development sought.
- 7.2.37. On the basis of the above, I am not satisfied that the proposed development is one that accords with the Development Plan for extensions to dwellings on 'RS' zoned land.
- 7.2.38. That is to say that under Chapter 3.4 of the Development Plan it clearly sets out that where extensions will be considered favourably where they will not have a negative impact on adjoining properties and the 'RS' zoning objective seeks to achieve a balance between protection and improving residentially zoned areas like this.

- 7.2.39. Further, Objective PM46 of the Development Plan also seeks that such developments are sensitively designed and that they do not negatively impact on adjoining properties or area.
- 7.2.40. Therefore, for these reasons and in this case, I consider that to permit the proposed development would be contrary to the proper planning and sustainable development of the area.

### **7.3. Impact on Visual Amenities**

- 7.3.1. No. 24 Yellow Wall Road is located in a mature residential area that lies just under a kilometre from the heart of Malahide's town centre.
- 7.3.2. Yellow Walls is a wide two-way street accommodating mainly residential development on either side with these being setback from the pedestrian footpath by generous setback that accommodate soft landscaping and, in some cases, large off-street car parking provision.
- 7.3.3. Along the southern stretch of the Yellow Walls Road that the appeal site forms part of it is characterised by detached dwellings, also generously setback from the public domain, with detached dwellings on generous originally garden type plots.
- 7.3.4. Historically the immediate stretch in which No. 24 is sited consisted of a group of similar in design, detached hipped roofed single storey dwellings, with deep rear gardens.
- 7.3.5. These dwellings were sited on what appears to be ridge line that runs in a south easterly and north westerly direction. With this resulting in these dwellings having significantly raised ground levels when compared to the public domain.
- 7.3.6. In general, it would appear that the ground levels exceeded 2m and thus despite the single storey built forms the ridge height of these dwellings corresponded with the ridge height of the two storey dwellings on the opposite side of Yellow Walls Road. Alongside contrasting with the lower ground level siting of similar in period single storey dwellings that are also found on the opposite side of this road.
- 7.3.7. Over time these period single storey dwellings have for the most part been subject to significant alterations and additions. These have included the provision of first floor level by way of altering the ground levels, particularly to the rear so that the ridge heights of the original dwellings remain in harmony with one another. They have also

generally included a hipped profile into the amended roof structure which is the predominant roof type at this location.

- 7.3.8. The first reason cited by the Planning Authority raised concern that the form of the development proposed does not comply with Objectives PM45 and DMS44 of the Development Plan due to it not respecting the established building height along Yellow Walls Road.
- 7.3.9. In addition, the Planning Authority considered that the proposed development would be out of character with the surrounding area, would be visually dominant and incongruous with its streetscape setting.
- 7.3.10. The observers in this appeal case raise the same concerns and further consider that, if permitted, the proposed development in terms of visual impact on their properties and on the setting would be visually overbearing and overly dominant.
- 7.3.11. The appellant does not accept that the proposed development would be contrary to the said Development Plan objectives and also consider that Yellow Walls Road is not an area that could be considered as having a unique and identifiable residential character with provides a sense of place. They contend that the design resolution put forward puts forward an energy efficient dwelling that respects the front building line, is appropriate in its site context, it would add positively to the character of the area, and it is consistent with the Development Plan provisions.
- 7.3.12. In relation to the said objectives, I note that Development Objective PM45 promotes the use of contemporary and innovative design solutions subject to safeguards and Development Objective DMS44 seeks to protect areas with unique, identified residential character which provides a sense of place to an area through design, character, density and/or height so that any new development in such areas respects this distinctive character.
- 7.3.13. What appears to be the concern is that the building height of the dwelling as proposed with its 6.9m height, 12.325m wide and sitting with ground levels of 2.25m above the roadside kerb would be at odds with the roof structure height, volume and profile that characterise the group of detached dwellings it forms part of. This is added to by the limited 1.05m separation distance between the dwelling and the adjoining property to the east which has a roof structure that encroaches onto this 1.05m lateral separation distance. It is further added to the significant height increase on the eastern and

western elevations with the western elevation indenting into the otherwise rectangular shaped plot of No. 26. The 6.9m height is added to by the two chimney stacks that project above the ridge height by c400mm on either side of the ridge line.

7.3.14. Moreover, in relation to other examples of two storey dwellings in the immediate vicinity of No. 24 Yellow Walls Road where these have been provided for example in the case of No. 20 Yellow Walls Road, it would appear that the site levels have been lowered to harmonise with the public domain of the adjoining stretch of Yellow Walls Road and the ridge heights harmonise with the established ridge height.

7.3.15. Thus, the first-floor level harmonises with the height of first floor levels where present to the east and on the opposite side of Yellow Walls Road.

7.3.16. In the case of the adjoining site No. 26 Yellow Walls Road the existing ground floor was added to by way of a gable fronted first floor level extension. This resulted in an increased ridge height of 586mm under the grant of permission P.A. Ref. No. F02B/0211. The gable shaped roof inserted onto the existing dwelling house with the ground levels lowered to the back to facilitate the extension of this dwelling in a southerly direction does not result in a significant change in ridge heights as appreciated from the public domain of Yellow Walls Road.

7.3.17. The visual dominance of the roof structure is added to in my view by the front dormer and the significant extension of the first-floor level in a southerly direction by c8.9m from the amended ridge height. This together with the width and the added height of the roof structure would given the elevated position of the dwelling relative to the public domain and given the harmony that exists in roof structures of detached dwellings in this stretch of streetscape would be highly visible from the public domain.

7.3.18. From the opposite side of Yellow Walls given the difference in ground levels the dwelling would despite its two-storey built form have the appearance of a three-storey dwelling given the solidity of the roadside boundary treatments and the elevated ground floor level. This is at odds with the character of residential built forms on Yellow Walls Road which in the immediate streetscape context of the site are single storey and dormer in terms of their legibility from the public domain. But in the case of the wider visual curtilage of the dwelling in the context of Yellow Walls Road it would be at odds with the single through to two-storey character of dwellings that inform its character.

- 7.3.19. In relation to the second reason cited by the Planning Authority to refuse permission further concern is raised in relation to the depth and width of the dormer rear extension and, if permitted, in the form proposed it would contravene Objective DMS41 and the 'RS' zoning objective for the area.
- 7.3.20. I accept that the dormer profile forms part of the first-floor design of what is essentially in appearance a two-storey dwelling as a result of its height, overall built form, mass, and scale. I do however consider that as a result of the significant depth and width of the first-floor level together with its stepped profile from front to rear that overall, the first-floor level addition sought for the dwelling at this location would be visually dominant, overbearing, and incongruous despite the palette of materials proposed.
- 7.3.21. While I accept that the first-floor level together with the significant alterations proposed to this existing dwelling would improve residential amenity for its occupants which is consistent in part with the 'RS' zoning objective of the site and its setting. Notwithstanding, the 'RS' zoning also seeks to provide a measure of protection for residential amenity in this land zone and in this case, I consider that the design would be visually overbearing as appreciated from the adjoining properties to the east, west and south due to its height, built form, modulation, mass, and scale.
- 7.3.22. Based on the foregoing, I consider that the concerns raised by the Planning Authority in their notification to refuse permission and the observers in their submissions to the Board, on the matter of impact on the visual amenity of the area have basis. To permit the proposed development as sought would in my view not be contrary of Objective PM46 of the Development Plan which seeks to encourage sensitively designed extensions to existing dwellings which do not negatively impact on adjoining properties or area.
- 7.3.23. Moreover, I consider that the proposed development would also be contrary to the 'RS' zoning of the site due to the design resolution not achieving a successful balance in protecting and respecting the established residential and visual amenities of the area whilst balancing the need of the applicants to improve the residential amenity of the dwelling unit at No. 24 Yellow Walls Road.
- 7.3.24. Therefore, the proposed development, if permitted, would be contrary to the proper planning and sustainable development of the area.

#### **7.4. Precedent**

- 7.4.1. The fourth reason given by the Planning Authority in its notification to refuse permission for the development sought under this application raised concerns that it would set an undesirable precedent for other similar developments which would in themselves and cumulatively be harmful to the residential amenities of the area. On this particular matter I consider that this as a reason in itself for refusal of the proposed development is not substantive in its own right on the basis that in accordance with proper planning practices all planning applications should be considered on their individual merit.

#### **7.5. Civil Matters**

- 7.5.1. Concerns are raised by both observers in this appeal case in relation to the carrying out of work outside of the site area in which the applicants have legal interest and that the development as proposed would result in works being carried out on their properties without consent for such works.
- 7.5.2. It would appear that the demolition of the garage structure, the modified and enlarged built form of the dwelling together with the modifications that appear to be proposed to the eastern as well as western boundaries that these have the potential to encroach on land for which the applicant has not demonstrated sufficient legal interest in.
- 7.5.3. I also raise concerns in relation to whether or not the new structure which the public notices describe as a shed would encroach and/or oversail onto shared boundaries or onto land outside of the applicant's control.
- 7.5.4. The information provided on file, in my opinion, does not clarify that they have sufficient legal interest to carry out the scope of works proposed under this application through to that they have consent of the affected landowners for any oversailing that would arise through to any maintenance works required to be carried out on new structures along the eastern or western boundary of the site.
- 7.5.5. I further note that concerns are also raised by the observer that the proposed development, if permitted, in the form proposed could give rise to structural integrity issues for their property.
- 7.5.6. It is my opinion that any instances of damage to, or interference with, the appellants' property attributable to the proposed development alongside the carrying out of work

outside of which the applicant has legal interest in would essentially be a civil matter for resolution between the parties concerned.

7.5.7. In relation to these concerns, I refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.5.8. Based on the foregoing should the Board be minded to grant permission for the proposed development I recommend that they include an advisory note reiterating Section 34(13) of the Planning and Development Act, 2000, as amended, as a precaution and in the interests of orderly development.

## 7.6. Other Matters Arising

7.6.1. **Car Parking:** Concerns are raised by the observers in this appeal case that the misleading information has been provided by the applicants that there are 6 car parking spaces currently provided at this site and that this proposal would seek to reduce this provision to four which is above that required in the Development Plan for a single dwelling unit of the size and type proposed. Having inspected the site I do not consider that there are 6 functioning car parking spaces on the site and any car parking that does occur in most cases would be done in forward gear into the site. Due to the restricted width of the driveway, there is no space for cars to manoeuvre. In absence of this space in most cases it is likely that cars parked on the driveway would have to reverse out in order to access onto the Yellow Walls Road. With the sloping nature of the driveway (Note: the drawings show c2.55m difference in ground levels between the top of the driveway and the public carriageway of Yellow Walls Road), the man-made and natural features present in vicinity of the entrance obstructing sightlines in both directions onto the public domain, which at this point includes a heavily traffic pedestrian footpath and with Yellow Walls Road functioning as a heavily trafficked local distributor road that also serves as a Dublin Bus route. There, is also an abrupt fall of ground level in the proximity of the pedestrian footpath and the northernmost part of the driveway.

With this being the existing situation, I consider that the level of potential for conflict with road users cumulatively increases with the more cars that are parked along the



existing driveway. Thus, adding to the traffic hazards that arises from the parking of cars on the existing site.

Based on the foregoing I do not accept the basis on which the applicant contends that there are 6 functioning car parking spaces currently present on the site and the argument put forward that the proposed development sought under this application would reduce this car parking provision to 4 is not credible.

In relation to the proposed development, the applicant proposes to drop the ground levels forward of the front building line, to modify the area between the principal elevation and the roadside boundary of Yellow Walls, and to provide an amended roadside boundary which would include a separate vehicle and pedestrian access onto the public domain of Yellow Walls Road.

It would appear that the setback area which has a depth of 12.415m would be lowered in order to provide a ramped pedestrian access that would connect via a sloping ramp to a pedestrian access that would be located at the current position of the entrance serving the site. In this regard the ground levels given to the front of the principal façade are 12.6. With these falling to 10.25 at the roadside kerb.

Connected to the ramp in proximity to the north eastern corner of the dwelling unit a set of stairs are proposed to connect to the main setback area which would accommodate four car parking space positioned along the western boundary.

The ground levels of this modified and lowered area range from a given 11.05 in close proximity to the ramp providing pedestrian access to the principal façade, at the centre of the setback area 11.78 with this falling to 10.3 at the location of the proposed new vehicle entrance.

The new vehicle entrance has a more central location along the roadside boundary and has the same ground level as the pedestrian access onto the public domain of Yellow Walls Road.

No setback of the vehicle entrance is proposed to improve sightlines onto the Yellow Walls Road in either direction.

I note a 49m sightline is required in either direction and whilst I note that the Transportation raised no substantive concern that would warrant refusal of planning permission should the Board be minded to grant permission I recommend that a

revised and combined entrance be provided onto Yellow Walls Road with the objective of achieving the required sightlines onto this heavily trafficked distributor road where the posted speed limit applies.

In relation to the quantum of car parking proposed I raise a concern that there is no remaining deep soil or soft landscaping to the front of the modified dwelling. Whilst sustainable drainage measures are proposed I am of the opinion that the car parking is excessive for one dwelling at a location that is well served by public transport and where there are on-street car parking spaces provided at points along Yellow Walls Road.

On this point I note that Section 12.10 of the Development Plan seeks to limit car parking provision for at new developments and in line with existing Government policy seeks to support the promotion of a modal shift to more sustainable forms of transport. Given that this application seeks what is effectively a replacement dwelling and substantial alterations of the entirety of the site.

With this including a substantial detached building to the rear and the augmentation of the entire site and its boundaries I consider that it is not unreasonable to seek that such development accords with the Development Plan provisions in terms of car parking. Particularly in a context where the existing circumstance is one where there is not one car parking space on site that can be accessed and egressed from and onto public domain in forward gear.

I also consider that the absence of any soft landscaping to the front of the building line would be at odds with its streetscape scene. Further, appropriate landscaping could soften and help integrate the significant modified dwelling that this proposed by way of this application as appreciated from the public domain. Alongside could ensure that this development does not further erode character afforded by natural features and biodiversity of its setting.

Based on the foregoing, whilst I accept that the proposed development, if permitted, would not give rise in planning terms to a significant intensification of car parking usage given that the outcome would be one dwelling and given that the site has an established use as one dwelling. I also accept that the provision of car parking spaces on site with sufficient space to ensure that cars can enter and exit the vehicle entrance would represent an improved situation. Notwithstanding, I recommend that the Board

should it be minded to grant permission seek further improvements to the roadside boundary in order to achieve the required sightlines for new entrances, improved landscaping within the setback area to the front of the dwelling and a reduction in on-site car parking within the setback area. I also recommend that in accordance with Objective MT10 of the Development Plan that provision for electric charging infrastructure be provided in this setback area.

#### 7.6.2. **Enforcement:**

The appellants submission raises alleged non-compliance concerns in relation to the development that has been carried out at No. 26 Yellow Walls Road and that the development that has been constructed is not in compliance with the grant of permission P.A. Ref. No. F02B/0211. On this particular concern, I note that the Board does not have a role in enforcement and that Section 10.1 of the Development Management Guidelines, 2007, provides that enforcement of planning control is the responsibility of the Planning Authority to deal with as they see fit. Therefore, such concerns should be addressed to the Planning Authority.

### 8.0 **Appropriate Assessment**

- 8.1.1. The nearest Natura sites are Malahide Estuary SAC (Site Code: 000205) which is located c436m to the north west of the site and Malahide Estuary SPA (Site Code: 004025) which is located c523m to the north at their nearest points. Having regard to the nature, scale and extent of the development sought and its location relative to said European sites and other European sites within the wider setting, I consider it is reasonable to conclude on the basis of the information on file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

### 9.0 **Recommendation**

- 9.1. I recommend that permission be **refused**.

## 10.0 Reasons and Considerations

Having regard to the pattern of development in the area, the 'RS' zoning objective of the site which seeks to provide for residential development and protect and improve residential amenity and Objective PM46 which seeks to encourage sensitively designed extensions to existing dwellings which do not negatively impact on adjoining properties or area, of the Fingal Development Plan, 2017-2023, it is considered on the basis of the documentation submitted with the application and on appeal, that the proposed development by reason of its design, built form and proximity to site boundaries, would constitute an overly visually dominant and overbearing development of the site, that would seriously injure the residential amenities of existing development in its immediate vicinity, that would be a visually discordant feature that would be at odds with its streetscape setting and in turn would have negatively impact on the character and visual amenities of the surrounding area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

30<sup>th</sup> day of August, 2022.