



Development	Demolition of existing dwelling and construction of dwelling & associated works.
Location	'Sanford', Green Road, Dalkey, Co. Dublin, A96 AV65.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D21A/0835.
Applicant(s)	Patrick & Heather Sneglar.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	<ol style="list-style-type: none">1. First Party.2. Third Party.
Appellant(s)	<ol style="list-style-type: none">1. Patrick & Heather Sneglar.2. Niall Dowling.
Observer(s)	Karl & Julia O'Connell.
Date of Site Inspection	18 th of November, 2022.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.4. Natural Heritage Designations	8
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Planning Authority's Response	11
6.3. Applicant's Response.....	11
6.4. Appellants Response	12
6.5. Observations	12
7.0 Assessment.....	14
8.0 Recommendation.....	31
9.0 Reasons and Considerations.....	31

1.0 Site Location and Description

- 1.1. 'Sanford', the appeal site with a stated site area of 0.1143ha (0.282acres) is located on the eastern side of Green Road, c86m to the south west of Green Road's junction with Coliemore Road and c65m to the north west of its junction with Nerano Road, in the Dublin city suburb of Dalkey, c17km to the south east of the city centre. The site contains a detached dormer dwelling with pitched roof over served a recessed vehicular access that open onto Green Road at points where sightlines are restricted in both directions. The dwelling is positioned towards the southernmost end of this irregularly shaped site. A low stone wall defines the roadside edge of the site. To the south of the entrance contains a restricted in width pedestrian footpath.
- 1.2. Green Road is a narrow curving in alignment changing in horizontal alignment unmarked residential road that is characterised by a variety of mainly large two storey dwellings on large plots with many having panoramic coastal views.
- 1.3. The surrounding area has an established residential character.

2.0 Proposed Development

- 2.1. Planning permission is sought for demolition of existing dwelling [2 level dormer], and construction of one 4 bedroom dwelling [2 storey to road, over a lower ground/part basement level to rear garden], with separate ancillary building to accommodate garage/gym/home office use [single storey to road, 2 storey/single storey to front garden], utilising existing vehicular site entrance, with connection to public services and all associated landscaping and site development works including new stone boundary wall to public road on the site of Sanford together with all associated site works and services.
- 2.2. The documentation submitted with this application indicates that the existing dwelling for which demolition is proposed is 140m²; the proposed dwelling is 442m² and the ancillary building is given as 562m². It also sets out that the amenity area would be 500m².
- 2.3. This application is accompanied by a number of documents including:
 - Cover Letter which includes a Sun Path Analysis.

- Civil Engineering Report which includes Irish Water connection agreement.
- Planning Presentation.

2.4. On the 22nd day of February, 2022, the applicant submitted their **further information** response which was accompanied by new public notices due to the revisions contained therein. This submission is accompanied by:

- Cover Letter.
- Drawings showing Modification Landscape and Site Boundary Proposals.
- Green Infrastructure Strategy.
- Construction & Environmental Management Plan.
- 3D Planning Submission Presentation.
- Daylight Reception Analysis Report.
- Sunlight Reception Analysis Report.
- Surface Water Report.
- Site Layout Drainage Drawings.

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 16th day of March, 2022, the Planning Authority decided to **refuse** planning permission for the following stated reason:

“The proposed development, as clarified by way of Significant Further Information submitted on 22/02/2022, would not accord with the provisions of Section 8.2.3.4(xiv) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 regarding Demolition and Replacement Dwellings in that a strong justification has not been provided for the demolition of the existing dwelling on site. Furthermore, the proposed development, if permitted, would set an undesirable precedent for other similar development which would in themselves be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and would thus be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officers** report is the basis of the Planning Authority's decision. This report essentially considered that the further information response received from the applicant did not address in a satisfactory manner their concerns. It was also considered that this response did not justify the demolition of the dwelling house in a manner consistent with local planning provisions and to permit its demolition would result in an undesirable precedent. This report concludes with a recommendation to refuse permission as per Section 3.1 above.

The **initial Planning Officers** report concluded with a request for **further information** on the following matters:

- Item No. 1: Justification for the demolition of the existing dwelling sought.
- Item No. 2: Seeks that overlooking concerns are addressed. Concerns also raised on the scale, height, visual and amenity impacts of the ancillary building. Revisions were therefore sought to this building. In addition, revised boundary and soft landscaping also sought.
- Item No. 3: Requires revisions to mitigate overshadowing.
- Item No. 4: Requires adequate surface water management measures.
- Item No. 5: A site-specific construction and environmental management plan (CEMP) sought.

3.2.2. Other Technical Reports

Drainage: Final report. No objection, subject to safeguards.

Transportation: No objection, subject to safeguards.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

- 3.4.1. Eleven number observations were received from interested Third Parties with addresses in the vicinity of the subject site during the course of the Planning Authority's determination of this planning application. Of note four of these Third Parties also submitted comments on the applicant's further information response. I note that copies of these observations are attached to the file, and I have noted their content. In this regard, I consider that the key concerns overlap with those raised by the Third Party in their appeal submission to the Board. A number of procedural concerns, including what is considered is the misleading description of the development that is sought through to the adequacy of drawings accompanying the original application concerns are also raised. In addition, concerns were raised that the modifications made as part of the revised proposal submitted as part of the applicants further information response did not address fully the Planning Authority's concerns nor did the revised proposal alleviate the undue visual and residential amenity impacts that would arise from the proposed development, if permitted.

4.0 Planning History

4.1. Site

ABP Ref. No. PL06D.126306 (P.A. Ref. No. D01A/0462): Planning permission was **refused** on appeal for a two-bedroom house on the site served by the existing access onto Green Road. The stated reasons and consideration for refusal read:

"The proposed development, by reason of its dependence on the access arrangements of an existing dwellinghouse and the proximity of the proposed access to the gable of that dwellinghouse, would seriously injure the residential amenities of property in the vicinity."

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Since the Planning Authority issued its decision in respect of the subject proposed development, they have adopted a new development plan for their administrative area.

The applicable plan for the determination of this application is therefore the Dún Laoghaire Rathdown County Development Plan, 2022-2028. Under this plan the appeal site is located in an area zoned as 'A' with the stated land use zoning objective: *"to provide residential development and improve residential amenity while protecting the existing residential amenities"*.

- 5.1.2. Section 3.4.1.2 and Policy Objective CA6: Retrofit and Reuse of Buildings is relevant.
- 5.1.3. Section 4.3.1 of the Development Plan states that: *"the Council will encourage the retention and deep retrofit of structurally sound, habitable dwellings in good condition as opposed to demolition"*.
- 5.1.4. Section 12.3 of the Development sets out guidance on qualitative, quantitative, and development management criteria for sustainable neighbourhood infrastructure and residential developments.
- 5.1.5. Section 12.3.9 of the Development Plan deals with the matter of demolition and replacement dwellings.

5.2. Regional

5.2.1. **Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.**

This is a strategic plan which identifies regional assets, opportunities and pressures as well as sets out appropriate policy responses in the form of Regional Policy Objectives (RPO's). It provides a framework at a strategic level for investment to better manage spatial planning and economic development to sustainably grow the Region to 2031 and beyond. Of relevance is the following objectives:

- RPO 7.40: *"Local authorities shall include policies in statutory land use plans to promote high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings, including retro fitting of energy efficiency measures in the existing building stock and energy efficiency in traditional buildings. All new buildings within the Region will be required to achieve the Nearly Zero-Energy Buildings (NZEB) standard in line with the Energy Performance of Buildings Directive (EPBD)"*.
- RPO 7.41: *"Support and promote structural materials in the construction industry that have low to zero embodied energy & CO2 emissions"*.

5.3. **National**

- Project Ireland 2040 - National Planning Framework (NPF).
- Climate Action Plan, 2021.
- Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007.
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009.
- Urban Design Manual: A Best Practice Guide, 2009.
- BRE Guide ‘Site layout Planning for Sunlight and Daylight’, 2011.

5.4. **Natural Heritage Designations**

- 5.4.1. The site is not located within a designated Natura 2000 site, nor does it adjoin a Natura 2000 site. The site is located c171m to the west of Dalkey Islands Special Protection Area (Site Code: 004172) and c242m to the west of Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000). I also note that the site is located c60m to the east of Proposed Natural Heritage Areas: Dalkey Coastal Zone and Killiney Hill (Site Code: 001206).

5.5. **EIA Screening**

- 5.5.1. Having regard to the nature and scale of the proposed development as set out in Section 2 of this report which comprises of the construction of a new dwelling house, ancillary building together with associated works in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.6. **Built Heritage**

- 5.6.1. The site is within the visual setting of Coliemore Harbour, Protected Structure, RPS Ref. No. 1898, and a Victorian Period House, Protected Structure, RPS Ref. No. 1519.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Board received a First-Party and Third-Party appeal submission which I propose to summarise separately as follows.

6.1.2. First Party Appeal – Patrick & Heather Sneglar

- The Board is sought to overturn the decision of the Planning Authority.
- The Planning Authority did not have adequate regard to their further information response.
- As part of this submission the following additional documents are provided:
 - Original, Further Information Response Information and an architectural 'Hybrid' of the two prepared by their architects.
 - Condition Report.
 - Climate Impact Comparison Report.
 - BER Report.
- They are of the view that the original design as proposed is the most suitable to the site and it is sought that the Board consider this appeal case *de novo* incorporating the façade amendments addressing neighbouring amenity concerns submitted as part of their further information response as well as those originally proposed.
- Planning Authority raised no concerns in relation to the principle of the development.
- The proposed louvres in both timber and opaque glass are intended to mitigate when the person is in closer proximity.
- The existing dormer dwelling does not positively contribute to its setting.
- There are ample precedents for demolition and replacement dwellings in the area.
- Sufficient justification for the replacement of this dwelling is its poor condition and the more energy efficient replacement dwelling.

- The Planning Authority is reliant upon Section 8.2.3.4 of the Development Plan for the refusal of the proposed development.
- There are no reasonable opportunities to expand or renovate the existing dwelling to provide a high-quality home for the appellants that will meet their needs.
- The continued deterioration of the existing house without drastic intervention will render it uninhabitable, particularly during the winter months.
- A BER assessment of the dwelling categorised the dwelling as 'F'.
- Over the lifetime of a new dwelling as opposed to that of Sanford would be more energy efficient.
- The existing dwelling cannot be incorporated into the new layout.
- The refusal of permission in this case is not warranted.

6.1.3. **Third Party Appeal – Niall Dowling**

- The appellant indicates that they are the owner of 'Windward' the neighbouring property directly opposite the subject application property on Green Road.
- The principle of the proposed demolition of the existing dwelling is not deemed acceptable under the Development Plan of regional and national planning provisions.
- A second dwelling is effectively proposed under this application. Previously the Board refused permission for a second dwelling on this site.
- This development would result in a significant increase in traffic generated on Green Road from substandard access points and in turn it would give rise to additional traffic hazards on this road for its users.
- The sightlines serving this site are substandard.
- At present the existing dwelling does not project above ground level along Green Road and the ridge of the sloping roof is contained behind the existing screening.
- Reference is given to Board decisions in the area.
- The adequacy of the drawings to make an informed decision is raised.

- The proposed development will create a significant overlooking and exacerbate visual obstruction on the open sea views.
- This proposal would be a visually dominant intrusion in its landscape setting.
- The draft CEMP indicates that the road could be potentially closed off for periods of time during the construction phase. This is objected to.
- Since the Covid 19 pandemic Coliemore Harbour has become a popular swimming place and the consequence is that extraneous traffic as well as parking associated with this now adversely impacts on Green Road.
- The applicant has provided no screening assessment for Appropriate Assessment or Natura Impact Statement.

6.2. Planning Authority's Response

6.2.1. The Planning Authority's response can be summarised as follows:

- Board is referred to their Planning Officer's report.
- Grounds of appeal do not justify a change to their determination.

6.3. Applicant's Response

6.3.1. The First Party Response can be summarised as follows:

- Their further information response to the Planning Authority provided justification for the demolition of the existing dwelling and its replacement.
- A replacement dwelling would not result in any significant increase in traffic.
- The inadequacy of public footpaths is a matter outside of their control.
- No second dwelling is proposed.
- No direct overlooking would occur.
- The access and egress to the site is existing.
- The property will remain in single ownership.
- The Planning Authority's AA and EIA concluded no significant impact.

6.4. Appellants Response

6.4.1. The Third-Party Appellant's response to the First Party Appeal can be summarised as follows:

- The Board is requested to consider the proposed development *de novo* and on the documentation submitted to the Planning Authority only.
- If the applicant had not reduced the scale of the ancillary building by way of their further information response it is considered that the Planning Authority would have derived at a harsher decision.
- To accept the amendments put forward by the First Party in their appeal would undermine the public participation process.
- The Development Plan sets out a clear preference for deep retrofit of structurally sound habitable dwellings.
- The report prepared by Walsh Building clearly shows that retrofit is possible.
- There are no exceptional or extraordinary circumstances that precludes retrofitting and refurbishment of this dwelling.
- The Climate Impact Comparison report prepared by DKP assumes that the existing building is structurally sound.
- The applicant wants a second dwelling on the site and a dwelling that is more centrally positioned where it would be visually more prominent.
- Reference is made to a number of Board determined cases.
- This development, if permitted, would compromise its visual and residential setting.
- The proposed development will significantly alter the topography.
- This proposal is out of scale within its context.
- It is requested that the Board refuse planning permission.

6.5. Observations

6.5.1. On the 9th day of May, 2022, an observation was received by the Board by an adjoining property owner with an address on Green Road which can be summarised as follows:

- The Planning Authority's decision is supported.
- Planning precedent indicates where replacement dwellings were permitted by the Board that they should respect the character and prevailing pattern of development in the area. In this case, the existing site context is ignored, and little regard given to neighbouring properties as well as the sloping nature of the site.
- The condition survey provided by the applicant does not support that the existing dwelling is structurally unsound, and it shows that the property is occupied. What it shows is that this 1939 property requires elements of repair and modernisation.
- Opting for demolition and a replacement dwelling is not consistent with local planning provisions.
- Green Road is a uniquely curving and steeply sloped road with properties arranged along the sloping topography of this location.
- The proposed dwelling would appear as a five-storey built insertion as viewed from Coliemore Road due to the sloping topography of this location. The works would dominate its setting.
- This proposal represents overdevelopment of a steeply sloping site, and the proposal seeks a fourfold increase in habitable space.
- The current open views seaward enjoyed by a majority of dwellings would be blocked by this proposal.
- There is a serious concern overlooking and the perception of being overlooked from the proposed development, if permitted, for properties in its setting.
- The screening measures proposed are not sufficient to mitigate overlooking.
- The access serving the site is substandard.
- This proposal will require extensive excavation of the site. It is highly probable that this will include lowering rock with this giving rise to noise, vibrations, and other nuisances. There are no details submitted in relation to this matter.
- The daylight and sunlight analysis shows that the proposed development will impact significantly neighbouring properties.

- The vast majority of properties in the vicinity have located their living spaces at first floor level to benefit from the coastal views and these views will be negatively impacted by this proposal.
- The Board is sought to refuse the proposed development.

7.0 Assessment

7.1. Introduction

7.1.1. I consider that the key issues relevant to this appeal are:

- Principle of the Proposed Development
- Compliance with Development Plan Provisions
- Planning History
- Roads Related Matters
- Precedent

7.1.2. The matter of '*Appropriate Assessment*' requires examination. I propose to deal with these issues in turn in my assessment below.

7.1.3. Prior to commencing this assessment for clarity, I note that since the Planning Authority determined this application the Dún Laoghaire Rathdown County Development Plan, 2022-2028, has been adopted. This therefore is the applicable Development Plan for the consideration of the development sought under the subject planning application.

7.1.4. Further, I also note that the original application was revised by way of the applicant's further information response on the 22nd day of February, 2022. This was accompanied by new public notices given that the revisions made were deemed to be significant in nature. Whilst I consider that the applicants further information response did not fully address the matters of concern set out in the Planning Authority's further information request. Notwithstanding, it did result in some revisions to the design that gave rise to improved residential and visual amenity outcomes for the site's mature built up and sensitive to change setting.

- 7.1.5. These revisions included the omission of the 1st floor level of the ancillary building; amended elevational treatment of the replacement dwelling, improved screening measures in order to lessen the potential for undue impact of the proposed development on the residential amenity of properties in its vicinity through to improved surface water drainage measures.
- 7.1.6. As a result of these qualitative improvements my assessment below is based upon the proposed development as revised by the applicant's further information response.
- 7.1.7. In relation to the First Party Appellants request that the Board consider the original application submitted to the Planning Authority and subject to amendments put forward by them in their accompanying documentation I consider that such an approach would give rise to significant and material public participation concerns.
- 7.1.8. With this conclusion based on the significant amendments made to the original proposal in the significant further information response and given the significant Third-Party engagement with this planning application during the time it was with the Planning Authority for its determination.
- 7.1.9. It is also of concern that the original proposal gives rise to serious residential and visual amenity injury on its setting, with or without the amendments put forward by the First Party Appellants appeal submission to the Board. With this including an amended ancillary building that includes a part first floor level over with this levels glazing orientated towards the rear garden space of the adjoining property to the immediate south. But also this structure whilst containing a part drive in garage at ground floor level containing separate and internal access points to an area that could easily be separated from the garage structure and utilised as an independent dwelling unit. In addition, the replacement dwelling would still give rise to significant serious diminishment of residential amenity of property in its vicinity by way of overlooking. With the replacement dwelling and the ancillary building resulting in new highly visible and overtly overbearing new insertions that would be legible from Green Road and Coliemore Road. Including Coliemore Harbour which is afforded protection by way of its designation as a Protected Structure (Note: RPS No. 023-060) under the Development Plan.
- 7.1.10. In my opinion these concerns are such that they can not be overcome by way of condition in order to achieve a development outcome that would be consistent with the

provisions of the Development Plan. In particular in terms of achieving an appropriate balance between the protection of residential amenity and providing improved residential amenities in a manner that accords with land zoned 'A' under the Development Plan.

- 7.1.11. On the matter of adequacy of the drawings presented with the proposal as revised I consider that these together with the photographs taken during my inspection of the site are generally satisfactory to allow an informed determination of the development sought under this planning application as revised by the significant further information received.

7.2. Principle of the Proposed Development

- 7.2.1. Permission is sought for a development consisting of the demolition of an existing dormer dwelling which is called to as 'Sanford' in the accompanying documentation; the construction of a four-bedroom dwelling and an additional building accommodating garage, gym and home office uses together with all associated works and services. Of note the existing dwelling has a given floor area of 140m² and the revised floor area of the dwelling is given as 442m² with the ancillary building given as having a total floor area of 90m² consisting of a garage of 40m² and a gym of 50m².
- 7.2.2. The site and its setting forms part of a parcel of suburban land that has a mature predominantly residential character that is zoned 'A' under the Development Plan. The objective for such land is "*to provide residential development and improve residential amenity while protecting the existing residential amenities*".
- 7.2.3. The general principle of residential development is deemed to be permissible on zoned 'A' lands subject to safeguards.
- 7.2.4. I am therefore satisfied that that the principle of the development is acceptable at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance relevant to the development sought.

7.3. Development Plan Compliance

- 7.3.1. The First Party Appellant seeks that the Board overturn the decision of the Planning Authority that refused permission for the development sought under this application on the basis that it did not accord with the provisions of Section 8.2.3.4(xiv) of the Dún Laoghaire Rathdown County Development Plan, 2016-2022. In this regard the

Planning Authority considered that there were insufficient grounds to justify the demolition of this existing dwelling on site. It was also considered that to permit its demolition would result in an undesirable precedent for other similar developments and that it would be contrary to the proper planning and sustainable development of the area.

7.3.2. The Third-Party Appellant and Observers in this appeal case on the other hand seek that the Board uphold the Planning Authority's decision and they also seek that more robust reasons for refusal outside of the applicant's lack of sufficient justification to demolish the existing dwelling on site are provided. With these including but not limited to the serious injury that would arise to the residential and visual amenities of the area through to the potential adverse impacts on the nearby pNHA if the proposed development were permitted.

7.3.3. The Development Plan referred to by the Planning Authority in their given reason for refusal has been superseded by the Dún Laoghaire Rathdown County Development Plan, 2022-2028. What is of relevance is that Section 8.2.3.4(xiv) dealt with the matter of demolition and replacement dwellings. This is essentially what is being sought by the applicants under the subject planning application.

7.3.4. Section 8.2.3.4(xiv) sets out that the Council will consider applications for demolition and replacement dwelling having regards to a number of factors and on a case-by-case basis. It states that the Council: "*may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification / rationale shall be provided by the applicant*". It further states that: "*the retention and reuse of an existing structure will be encouraged over replacing a dwelling*".

7.3.5. In relation to the Dún Laoghaire Rathdown County Development Plan, 2022-2028, which as stated previously in this assessment is the applicable Development Plan for the consideration of this appeal case, in my view, there are more robust policies and objectives to consider the replacement dwelling against with this firstly including Section 3.4.1.2 – Policy Objective CA6.

7.3.6. Section 3.4.1.2 – Policy Objective CA6 deals with the matter of retrofit and re-use of buildings. It states that: "*it is a policy objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible*".

recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction". In support of this Section 3.4.1.2 of the Development Plan states that: "30% of construction related emissions locked into the completed building as 'embodied carbon' priority should be given to repairing and re-using existing buildings in preference to demolition and new-build" and where an existing building cannot be incorporated into a new layout demolition may be considered to be acceptable to the Planning Authority subject to such applications demonstrating compliance with Section 12.3.9 of the Development Plan.

- 7.3.7. Prior to setting out the requirements of Section 12.3.9 of the Development Plan I consider it incumbent to note that Section 12.2.1 of the said Plan states that: "*the Planning Authority will encourage and promote the repair, retrofitting and reuse of buildings in preference to their demolition and reconstruction where possible*" and "*where this cannot be achieved, the Planning Authority will support the use of sustainably sourced building materials and the reuse of demolition and excavated materials*".
- 7.3.8. This therefore adds additional support within the said Plan for retrofitting of existing buildings with other sections of the Development Plan also setting out that the general principle of improvements to existing dwellings is deemed acceptable subject to standard safeguards.
- 7.3.9. For example, Section 4.3.1.2 Policy Objective PHP19 which deals with the matter of existing housing stock and their adaptation. With this policy objective including but not limited to stating that the Council will seek to: "*conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF*".
- 7.3.10. In relation to Section 12.3.9 of the Development Plan, I note that it deals with the matter of demolition and replacement dwellings.
- 7.3.11. In similarity with the previous Development Plan, in particular Section 8.2.3.4(xiv), it states that: "*the Planning Authority has a preference for and will promote the deep retro-fit of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement unless a strong justification in respect of the latter has been put forward by the applicant*". Section 12.3.9 of the Development Plan also states that: "*the Planning Authority will assess single replacement dwellings within an*

urban area on a case by case basis and may only permit such developments where the existing dwelling is uninhabitable”.

- 7.3.12. The approach of the Development Plan on the matter of demolition and replacement of buildings is consistent with the Urban Design Manual, 2009, and RPO 7.40 and 7.41 the RSES which I have set out under Section 5 of this report above. These advocate energy efficiency and the use of renewable energy sources in existing buildings, including retro fitting of energy efficiency measures in the existing building stock. It is also consistent with the Climate Action Plan, 2021, with Section 18.5 of this Plan seeking the reduction in demand for virgin raw materials and supports the re-use of existing building buildings.
- 7.3.13. Alongside the above planning provisions, it is incumbent for any development on land zoned ‘A’ under the Development Plan to demonstrate that it is consistent with its land use objective of *“to provide residential development and improve residential amenity while protecting the existing residential amenities”*. Including but not limited to the design criteria set out under Section 12.3.1.1 Design Criteria so as to achieve a high standards of design and layout to qualitative dwelling units that form part of liveable and sustainable suburban neighbourhoods.
- 7.3.14. Whilst I consider that the spirit of Section 8.2.3.4(xiv) has been carried through under the now applicable Development Plan arguably local planning provisions have evolved to take on board regional and national planning provisions and guidance that have occurred in the intervening years when the previous plan was operational. With the current local, regional, and national approach employing climate resilient measures to achieve more sustainable planning outcomes.
- 7.3.15. The subject dormer dwelling on the subject site dates to c1930s and at the time of my inspection it was clearly in habitable use. I accept the Planning Authority’s conclusion that it is not of any architectural or other interest that would warrant its protection.
- 7.3.16. I also consider that as appreciated from the views available of it from the public domain it could not be argued to be a building that in its current state contributes to the quality and character of its streetscape scene. It and its curtilage are in a poor state of upkeep.
- 7.3.17. Moreover, it is also not a building that is highly visible from many vantage points within the public domain given that it contains robust screening on its roadside boundaries

and within the site it contains a small number of mature trees which provide further screening. Views of it in the public domain are localised with limited glimpses of its roof structure visible from Coliemore Road as well as in the vicinity of Coliemore Harbour. The latter is a designated Protected Structure (RPS No. 023-60).

- 7.3.18. From inside the site itself there are panoramic views out over the Irish Sea, including Dalkey Island and glimpses of Coliemore Harbour. It is of note that Dalkey Island, also known as St. Begnet's Isle, is an important built heritage site, containing ancient and historic remains including but not limited to a church dedicated to Saint Benedict, Neolithic structures through to a Martello tower. The Martello tower is particularly visible from the site.
- 7.3.19. Views are also available of it from the over five properties that bound it as well as other properties that neighbour it at both lower and higher ground levels. With the dwelling setback c40m from the rear boundaries of No.s 72 and 73 Coliemore Road. But with the rear private amenity space of No. 71, 74 and 75 Coliemore Road running alongside the side boundaries of the site. In addition, to this Ard Na Carriage, adjoins part of the southern boundary of the site with this property being accessed from Green Road and properties on the opposite side of Green Road in the immediate vicinity of the site occupy raised ground levels. In the context the private and semi-private domain of the properties the existing dwelling on site is visible but not overtly dominant.
- 7.3.20. I observed that its exterior did contain some level of cracking and as said there is evidence of a lack of upkeep. Despite this the overall envelope did not appear to be structurally unsound.
- 7.3.21. The justification for the demolition of the subject structure is based on the contention that its replacement with a more efficient use of the oblong site alongside the existing dwelling does not meet the appellants needs for a dwelling with a floorplan conducive to modern living and that more meaningful responds to the sloping topography of the site. The replacement dwelling would in the long-term result in a long-term efficient house and centrally locating the replacement dwelling would afford more light and ventilation to both structures. In relation to the additional structure proposed towards the back of the site it is described as ancillary structure that would facilitate the family's gym and sporting equipment.

- 7.3.22. I concur with the Planning Authority that the documentation provided by the First Party does not support that the existing dwelling is not in habitable use, is not fit for habitable use or that there is robust justification for its demolition and replacement. But rather the documentation supports that it would benefit from deep retrofitting to bring it up to modern standards through to improved energy efficiency and comfort for its occupants. Arguably is the case for any property that is nearly a century old. With spatial reconfiguration through to extensions could provide significantly improved residential amenity alongside providing an opportunity to improve the overall aesthetics of this property as appreciated in the round. Moreover, the climate resilience arguments do not set out that the building methodology is one that seeks to achieve a sustainably sourced building materials through to seeks the reuse of demolition and excavated materials in a manner that accords with Section 12.2.1 of the Development Plan.
- 7.3.23. Particularly having regard to Section 3.4.1.2 – Policy Objective CA6 and Section 12.3.9 of the Development Plan clearly sets out that demolition and replacement dwellings may only be permitted where the existing dwelling is uninhabitable but also allowing for such developments to be considered in a balanced manner on a case-by-case basis. Further, Section 12.2.1 of the said Plan sets out a preference for encouraging and promoting the repair, retrofitting and reuse of buildings in preference to their demolition and reconstruction where possible and where this cannot be achieved, the Planning Authority will support the use of sustainably sourced building materials and the reuse of demolition and excavated materials.
- 7.3.24. Notwithstanding this, having regard to the case by case basis I also consider that there is a need for balance in considering a replacement dwelling at this site, given that the existing dwelling is one that is of limited value in terms of contributing to its setting outside of in its existing circumstance its modest built form and its limited overlooking of existing properties due to the limited glazing on its eastern elevation and in terms of its dormer window on east facing roof slope. Alongside as said the potential for a replacement dwelling to achieve a more qualitative architectural response to the site and its context whilst also providing a dwelling that provides qualitative standards of residential amenity.
- 7.3.25. With this being said consideration should be had to the land use objective and also design criteria for dwelling units. In this case I consider that this is where the

substantive issues arise in terms of the proposed demolition and replacement of the dwelling sought under this application.

- 7.3.26. This is of particular concern in this case given that the demolition of the existing dwelling is to facilitate significant ground works to accommodate two substantive structures on site. With particular concerns being the potential of the proposed demolition and replacement dwelling as revised to give rise to serious diminishment of established residential amenities as well as resulting in a visually overtly dominant built insertion on what is a raised and elevated site.
- 7.3.27. In this regard, outside of the concerns raised in my assessment below in terms of the lost opportunity for the placement of the ancillary building and the works to the entrance as well as roadside boundary to give rise to improved sightlines for occupants using the existing substandard entrance serving this site I consider that this structure does not give rise to any significant issues whereas the replacement dwelling does.
- 7.3.28. The replacement dwelling, with its floor area of 442m² and what is effectively three floor levels of accommodation would be positioned further eastwards on this elevated site just beyond the front elevation of where the existing dwellings main footprint stops. There is a difference of c10m between the western point of the site which has a ground level of 24.00 and the eastern boundary of the site which has at its boundary with No.s 72 and 73 Coliemore Road a given level of 14m. Beyond this eastern boundary the ground levels again fall steeply to the rear of these dwellings and the dwellings on either side to the east and west to Coliemore Road. The first floor levels appear to be setback c12m from this boundary at their nearest point (Note: 72 and 73 Coliemore Road). At its nearest point the drawings show that the ground levels would be raised to accommodate the easternmost section of the replacement dwelling with the finished floor level indicated as being 3.7m above the ground level of the eastern boundary. The three floor levels raise 7.4m above this. The separation space in between also is shown as being modified by the creation of stepped green platforms with increased height.
- 7.3.29. There is c18m separation distance between the eastern and thus when the raised finished floor level of the eastern elevation is considered relative to that of the eastern boundary the replacement dwelling effectively sits with a ground level that is very similar to the height of the eastern boundary of the site. With the proposed

replacement building containing open space amenity accessible at ground and first floor level accessible from its eastern elevation. With these spaces and the eastern elevation containing large expanses of clear glass. The eastern and western elevations also echo the light weight architecture response containing large expanses of clear glazing. As such there would be significant views over the adjoining and neighbouring properties Coliemoire Road properties as well as Ard Na Carriage to the south and the long rear private amenity space of No.s 74 and 75 Coliemoire Road to the north.

7.3.30. The revised design whilst reducing the level of overlooking particularly by way of eliminating the open space amenity accessible from the top floor master bedroom. This amendment also includes glazing amendments with a horizontal transom at 1100mm off the finished floor level with opaque glazing below this. Other amendments to reduce potential adverse overlooking and perception of being overlooked includes providing opaque glass louvres and opaque glazed balustrading around the perimeter of terraces accessible from the lower ground levels. The majority of the screening has been provided to the southern and northern elevation of the building so as to maintain panoramic views out of the site in a easterly direction. Of concern is the height of the screening measures at 1.65m which when taken together with the significant changes in ground levels between the replacement dwelling and rear elevation as well as rear private amenity space of properties adjoining and neighbouring the site to the east, north and south. Together with the extensive glazing to the eastern, southern, and northern elevation I am not convinced that the applicant has satisfactorily demonstrated that no undue overlooking and or perception of overlooking would arise to these properties despite a level of overlooking to be expected in this suburban context.

7.3.31. The repositioning of the dwelling on site, i.e., the placement of the replacement dwelling eastwards has the potential in this site context to be significantly visually overbearing as observed from these properties. Particularly when the eastern portion of the replacement dwelling presents as three storeys with extensive areas of clear glazing associated with the structure itself as well as two levels of additional amenity space accessible from the eastern elevation where the finished ground level of the replacement dwelling effectively sits at a level that is similar to the top of the eastern

elevation boundary. It would also give rise to additional overshadowing of the property to the north and potentially to the east.

7.3.32. In this context I also consider that the uppermost floor of the replacement dwelling would have the appearance of a tower like structure that effectively significantly adds to the visibility of the replacement dwelling in its setting. Particularly as viewed from properties in its vicinity and from the public domain. Also given the limited distance between the site and the high visibility of Dalkey Island the replacement structure would result in a new build insertion that would be highly visible as part of the views from this Island towards the Protected Structure of Coliemore Harbour and its visual setting.

7.3.33. Conclusion

The site and its immediate surroundings are dominated by the steeply rising topography that extends from the coastline in a westerly direction. The surrounding pattern of development is characterised by a variety of period properties and several examples of more contemporary housing / architecture and the existing dwelling house is of not merit that would warrant its protection.

Notwithstanding it forms part of a site setting where residential and visual amenities are sensitive to change. In this case the proposal in this case has not demonstrated compliance with Section 3.4.1.2 – Policy Objective CA6; Section 12.2.1 and Section 12.3.9 of the Development Plan clearly sets out that demolition and replacement dwellings may only be permitted where the existing dwelling is uninhabitable but also allowing for such developments to be considered in a balanced manner on a case-by-case basis.

More importantly the design is one that if permitted would give rise to undue diminishment of residential amenities by way of overlooking, perception of being overlooked and by visual obtrusiveness.

In addition, the top floor level would have a towering impact on its setting by virtue of the significant changes in ground level that are present on this site and when taken with the overall quantum of the size, mass, scale and volume of the contemporary replacement dwelling proposed would be visually overbearing in its context in a manner that would be contrary to the land use objective of zoned A land. This seeks

to achieve a balance between the protection of residential amenities and improvements of residential amenities.

It would also be contrary to Section 12.3.1.1. of the Development Plan that requires new dwelling units to have satisfactory regard to surrounding character and streetscape together with adequate regard to the relationship of buildings to one another including in terms of levels of privacy and amenity.

In conclusion having regards to the above I consider that the proposed development would be contrary to the proper planning and sustainable development of the area.

7.4. Planning History – Site and Setting

- 7.4.1. It is of note that the planning history of the site includes a refusal of permission for a two-bedroom dwelling house to the rear of the site where the proposed ancillary building is sought under this application (Note: ABP PL06D.126306/P.A. Ref. No. D01A/0462). The grounds of refusal related to concerns over this dwelling's dependence on access on the public domain from the entrance serving the subject property Sanford. Alongside it was considered that it would give rise to serious injury of residential amenities of properties in its vicinity. This decision was made over two decades ago and planning policy provisions at a local, regional through to national level have significantly evolved.
- 7.4.2. In addition, more recently the Board on appeal granted permission for the construction of a new two-storey 5 bed single unit dwelling with south-east facing first floor balcony, together with landscaping and ancillary site works to the north of the site and accessed from the opposite side of Green Road (Note: ABP-304005-19/ D18A/0648). The address given for this appeal case determined by the Board was 'Site A, Easterly Site, Dalkey Sound, Green Road' (Note: c11m to the north of the site at its nearest point). Whilst the development subject of this appeal case related to a substantial contemporary in design dwelling it did not involve the demolition of a habitable dwelling and since the Board made its decision planning provisions relevant to residential development at this location have changed.
- 7.4.3. What the Board permitted in the aforementioned appeal case was a contemporary architecture design and layout approach for infill development in this established residential setting that whilst containing many period buildings and structures is not consistent or uniform in terms of the quality as well as architectural approach to

buildings and spaces that it contains. With Green Road having a varied streetscape character with buildings responding to the changes in topography, trying to capture views towards Coliemore Harbour and the coastline, the curving alignment of this road through to the time in which they were constructed.

- 7.4.4. Moreover, c93m to the south of the site on appeal to the Board permission was granted for the construction of a new dwelling (269m²) and a widened vehicular entrance with 2no. off-street car parking spaces to the front of the site and the demolition of the existing 1950s dwelling (206m²) (Note: ABP-308374-20/ D19A/0984) at Twin Trees, Nerano Road, Dalkey.
- 7.4.5. The Boards Inspector in this case considered the replacement dwelling on its merits based on them being satisfied that the building was quite poorly constructed, and its reuse could be problematic. The Boards decision in this case dated to June, 2021, and since that time the planning provisions relevant to residential development at this location have changed. In particular the recently adopted Development Plan includes a chapter on Climate and includes Policy Objective CA6 which removes some of the ambiguity present in the previous Development Plan. This objective deals with the matter of retrofit and re-use of buildings and states that: *“it is a policy objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction”*.
- 7.4.6. Further, the site is not within the visual setting of Sanford and buildings on this site despite the changes in topography they are not visible from Coliemore Road to the east.
- 7.4.7. I note that the Appellant and Observers in this appeal case refer to a number of other Board decisions.
- 7.4.8. These I have noted but I am of the view that these are not comparable to the site context through to planning provisions have evolved to include more climate resilient measures for consideration for applications where like in this case a replacement dwelling is sought alongside a substantial in size ancillary building on an elevated site in proximity to a proposed Natural Heritage Area of ecological and geological sensitivity, i.e., Dalkey Coastal Zone and Killiney Hill/Rocheshill (Site Code: 001206). In addition, by and large where replacement dwellings were permitted the dwellings

were not structurally sound and the replacement dwellings were not as substantive in their overall floor area together with their positioning corresponding to the pattern of development including relationship with other properties and the public domain.

- 7.4.9. I further consider that there are no other recent and/or relevant Board decisions within the visual setting of this appeal site. I also consider it appropriate that the proposed development should be determined on their individual merits in terms of their contribution towards the achievement of the applicable zoning objective and their compliance with all relevant planning provisions, in particular the policies and objectives set out under the applicable Development Plan.

7.5. Roads Related Matters

- 7.5.1. The proposed development includes refurbishing the existing entrance and providing a pedestrian and a vehicle gate. In addition, the refurbishment is indicated to include the walls alongside a new roadside boundary wall of 1.2m in height to matching the stone finish of the proposed ancillary building with a modest strip of planting in between.
- 7.5.2. Given the scope of works being carried out and the fact that sightlines are severely restricted in both directions the refurbishment works to the entrance and roadside boundary should in my view have considered how to improve visibility and pedestrian safety. It is also of concern the placement of the ancillary building in close proximity to the roadside edge to the immediate south of the entrance in terms of achieving safer access and egress onto Green Road. In this regard the proposed development which outside of retaining some boundary treatments, mature hedging and trees on the site essentially is treating the site as a blank canvas.
- 7.5.3. In my view it is a missed opportunity considering the scope of works proposed to the entrance, boundary through to the placement of buildings on site to improve the significantly substandard entrance serving this site even if it is the case that there is no increase in dwelling units proposed.
- 7.5.4. It is also a missed opportunity to repair the section of pedestrian footpath to the south of the entrance and to provide a section of pedestrian footpaths to the north of the entrance.

- 7.5.5. Given that there is no increase in dwelling units outside of the increased traffic that would arise during demolition and construction phases the proposed replacement dwelling, albeit its significant floor area, would not give rise to any additional car parking requirements under Section 12.5 of the Development Plan. This section of the Development Plan requires a house with three or more beds provide two car parking spaces.
- 7.5.6. In terms of nuisances arising during the demolition and construction phases from parking, deliveries and the like it is standard practice for these matters to be subject to a demolition and construction management plan in the event of a grant of permission. The need for this clarity is added to by the fact that the scope of works as shown in the submitted drawings also show significant ground augmentation to accommodate the proposed development. It is unclear whether this augmentation and regrading of the site would utilise ground materials removed to accommodate the replacement dwelling.
- 7.5.7. As a precaution and given the substandard nature of Green Road which at this point has a modest width, curving alignment through to a sloping horizontal gradient to the north and south of the entrance the need for a robust demolition and construction plan is needed as is a plan to appropriately deal with waste materials.
- 7.5.8. Despite the concerns raised above it is my view that the replacement of an existing dwelling would not give rise to any significant and material increases in traffic generated from this site outside of the demolition and construction phases. I also note that the Transportation Section of the Council raised no objection to the proposed development subject to the proposed development.

7.6. Other Matters

- 7.6.1. **Use of the Ancillary Structure:** Third Parties in this appeal case raise a number of concerns in relation to the ancillary structure proposed and they question why such a large structure is required for such a substantial in size dwelling house. They raise concerns that this structure could be used as an additional dwelling unit yet permission for an additional dwelling on this site has been previously refused by the Board under PL06D.126306.

It is therefore a concern that an additional dwelling unit on site would be contrary to the Boards previous refusal and that this structure like that refused would be also

reliant on the same substandard entrance serving the proposed replacement dwelling. They also consider that even with the revisions included in the applicant's further information which significantly reduced the overall built form, height, scale and mass of this structure still does not overcome this concern.

Whilst I am cognisant that the development as set out in the documentation provided including in its public notices as originally submitted and as revised do not seek the use of the ancillary building as a separate dwelling unit, as a precaution should the Board be minded to grant of permission I recommend that it include a condition restricting its use. Alongside a condition clearly setting out that the grant of permission is for one dwelling unit only in the interests of clarity and in the interests of ensuring that no additional traffic movements are generated on this site and dependent on what is a substandard entrance with significantly deficient sightlines onto the public road in both directions.

7.6.2. **Obstruction of Views:** Concerns are raised that the proposed development will have a detrimental impact on the residential amenity of neighbouring dwellings by reason of the of views over coastline, Coliemore Harbour through to Dalkey Island available from properties in its vicinity on Green Road. Whilst views in a easterly direction from Coliemore Road are afforded protection under the Development Plan, this stretch of Green Road, is not afforded any such protection. In addition, the views of concerns are those relating to a private individual and a private property there is no legal entitlement to such views being protected. I am of the opinion that the proposed development in this case would not seriously injure the amenities of property in the vicinity simply by interfering with their views of the surrounding area.

7.6.3. **Services:** Irish Water did not respond to the original application and the final report from the Planning Authority's Drainage Department raised no further objection to the proposed development subject to safeguards. The site is fully serviced with water and wastewater treatment and other required services. There is no increase in dwelling unit numbers arising from the proposed development and available information supports that public infrastructure in this area has no capacity issues. I therefore raise no significant concerns in relation to services and the proposed development sought under this application.

- 7.6.4. **Material Contravention:** Concern is raised that the proposed development, if permitted, would as result in a material contravention of the Development Plan on the basis of lack of compliance with the provisions set out in it for circumstances where demolition and replacement of dwellings are permitted. The Planning Authority did not refuse permission on the basis that the proposed development materially contravenes the Development Plan. This is a residential development on residentially zoned land, and I concur with the Planning Authority as set out above that the principle of residential development is generally acceptable at this location.
- 7.6.5. **Construction and Environmental Management Plan (CEMP):** The further information draft CEMP indicates that Green Road may be closed for short periods of time to facilitate the proposed development. The Planning Authority and its Transportation Section raised no objection to the same. Green Road is road is not heavily trafficked, but I did observe a number of pedestrians using it. Traffic along it I observed was not at high speed due in part to its width, topography, curving alignment and the number of entrances it accommodates. It also does not contain a pedestrian footpath on both sides. With the roadside edge bounding the site containing no pedestrian footpaths. The increase in scale of the building is not such that it is likely to generate additional traffic movements, apart from during construction period. It is standard practice that any road closure requires the approval of the Roads Authority, which in this case is the Council, and it would likely be of a limited duration and limited inconvenience as well as nuisance for road users. I also consider that this plan can satisfactorily deal with nuisances that arise from the demolition and construction phases of the proposed development sought were it to be permitted, subject to other standard conditions dealing with nuisances such as noise, hours of construction, demolition waste and reuse, storage of machinery and the like. I therefore raise no particular concerns in relation to this matter and it would be standard practice for a development in this context as part of any grant of permission to include a condition requiring the agreement of a final CEMP prior to the commencement of any construction.
- 7.6.6. **Biodiversity:** This appeal site forms part of a built-up urban area. The site can be considered 'brownfield' of limited ecological value. Having regard to the nature and scale of the works proposed, the submitted landscaping proposals, and the implementation of best practice construction management measures, I am satisfied

that the subject proposal will not give rise to any significant impact on wider biodiversity considerations.

- 7.6.7. **Development Contributions:** Should the Board be minded to grant permission the proposed development would be subject to a standard Section 48 Development Contribution condition.

7.7. **Appropriate Assessment**

- 7.7.1. The appeal site is situated c163m to the west of Rockabill to Dalkey Island SAC (Site Code: 003000) and c240m to the west of Dalkey Islands SPA (Site Code: 004172). The site is a brownfield serviced site and the works consist of a replacement dwelling, an ancillary structure and associated site works. There are no pathways for pollution or any indication that habitats or species associated with either designated site that would be affected by the proposed works, directly or indirectly were the proposed development permitted. I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider 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 either of the European sites noted above or any other European site, in view of their conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in this case.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

1. Having regard to the policy and objective provisions in the Dún Laoghaire Rathdown County Development Plan, 2022-2018, in particular those for land zoned A, which seeks “*to provide residential development and improve residential amenity while protecting the existing residential amenities*”, it is considered that the proposed development by reason of its scale, mass and bulk, positioning on this elevated site would seriously injure the residential amenities of the area and property in the vicinity by way of undue overlooking as well as would unduly detract

from its setting by way of its visual obtrusiveness and overly dominant appearance when viewed in its setting.

The proposed development would also be contrary to Policy Objective CA6 of the Development Plan which requires the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction.

It would also be contrary to Section 12.2.1 of the Development Plan which also encourages and promote the repair, retrofitting and reuse of buildings in preference to their demolition and the reuse of demolition and excavated materials; and Section 12.3.9 of the Development Plan which sets out that the Planning Authority will only consider the demolition where a strong justification has been put forward by the applicant and may only permit such developments where the existing dwelling is uninhabitable.

In this case, the Board is not satisfied that the applicant has demonstrated compliance with these requirements and, if permitted, would create an undesirable precedent for similar types of development in the area.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

8th day of March, 2023.