



An
Bord
Pleanála

Inspector's Report ABP-314182-22

Development

Alteration to F20A/0474 and planning permission for the construction of a single storey dwelling to the rear of the existing dwelling on site.

Location

Rear of No. 1, Seabury Lawns,
Malahide, Co. Dublin, K36 Y825.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F22A/0246.

Applicant

Niall Barry.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party v Refusal of Permission

Appellant

Niall Barry.

Observer(s)

Paul Comiskey.
Pat & Bernie O'Mahony.
Matthew Craig.
Ann Kilmade and Eunan Gaffney.

Patrick Finn.

Date of Site Inspection

12th November 2022

Inspector

Enda Duignan

1.0 Site Location and Description

- 1.1.** The appeal site comprises a portion of the rear amenity space of No. 1 Seabury Lawns, Malahide, Co. Dublin. No. 1 Seabury Lawns is located on the corner of Seabury Lawns and Seabury Park, c. 100m to the south of the junction of Seabury Park and Seabury Road. The site comprises a double storey semi-detached dwelling with an area of amenity space to its side and rear. Car parking is provided within the dwelling's front setback and the appeal site has a stated area of c. 0.015ha.

- 1.2.** In terms of the site surrounds, the site is located within established residential area which is typically characterised by semi-detached double storey dwellings of a similar architectural form. The site is located to the east of No. 1 Seabury Lawns and to the north of Nos. 2 & 4 Seabury View.

2.0 Proposed Development

Planning permission is sought for an amendment to an extant planning permission (Reg. Ref. F20A/0474) comprising revisions to the property boundaries. Planning permission is also sought for the construction of a single storey dwelling which includes an entrance hall, store, bathroom, and open plan kitchen/dining/living room. The dwelling has an integrated car port for 1 no. car space and the dwelling has a stated floor area of c. 50sq.m.

- 2.1.** The proposed dwelling will have a gable fronted pitched roof form with a maximum height of c. 5.6m. A flat roof element will extend above the car port on the southern side of the proposed dwelling. Materials and finishes for the proposed dwelling will comprise a combination of render and timber cladding for the principal elevations with a seam metal roof finish.

- 2.2.** Private amenity space is provided on the western side (rear) of the dwelling (c. 52sq.m.) and will be directly accessible from the open plan kitchen/dining/living room. The proposal includes works to the existing boundary wall and the creation of a new vehicular entrance from Seabury Park.

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council refused planning permission for the development for the following 4 no. reasons:

1. "The proposed development in its current layout cannot achieve the required sightlines and as such constitutes a traffic hazard.
2. The proposed infill development is to be located within the Seabury housing area which maintains a distinct residential character typified by a uniform house typology and design with a sense of visual harmony. The proposed dwelling would give rise to a significant negative impact upon the visual amenities of the surrounding area and be incongruous with the streetscape. As such to permit the proposed development would materially contravene the RS zoning objective pertaining to the subject site and Objectives PM44, DMS39, DMS40 and DMS44 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the restrictive nature of the subject site and the pattern of development within the surrounding area in addition to the dwelling permitted under Reg Ref. F20A/0474 the provision of this infill dwelling located to the rear of the existing dwelling would constitute overdevelopment of the subject landholding.
4. Vehicles emerging from the proposed parking area will be emerging blindly with no visibility of pedestrian activity. 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 Report

The Planning Authority in their assessment of the application indicate that the principle of the proposed development is acceptable in this instance having regard to the applicable zoning objective. In terms of design and visual amenity, the Planning

Authority raise concerns that the height and massing of the proposed is not in keeping with the character of the surrounding area. The Planning Authority also considered the proposal to constitute an overdevelopment of the appeal site taken into consideration the site's restrictive nature, the pattern of development within the surrounds and the planning history of the larger landholding, whereby an additional dwelling has been permitted to the side of the existing dwelling. It was considered by the Planning Authority that the proposed dwelling is visually incongruous within the existing streetscape and the proposal would give rise to a negative visual impact on the surrounding area. Concerns were also highlighted with respect to the open space provision for the proposed dwelling.

The Planning Authority also deemed the proposal to represent a traffic hazard due to the lack of sightlines and the poor intervisibility between pedestrians using the public footpath and vehicles exiting the site.

A refusal of permission was recommended within the Planning Report for 4 no. reasons.

3.2.2. Other Technical Reports

Transportation Planning Section: Report received recommending a refusal of the planning permission. Due to the high boundary wall that would be directly to the south of the proposed vehicular entrance, it was stated that there is significant potential for vehicle-pedestrian conflict at the proposed access point as a result of the poor intervisibility between pedestrians using the public footpath and vehicles exiting. The report notes that a section of the garden wall of the adjoining back garden would have to be removed or at the very least significantly reduced in height to achieve the required sightlines.

Water Services Department: Report received stating no objection subject to compliance with a condition.

Parks and Green Infrastructure Department: Report received requesting additional information.

3.2.3. Prescribed Bodies

Irish Water. Report received stating no objection subject to compliance with conditions.

3.2.4. Third Party Observations

A total of eight (8) no. observations were received from Third Parties. The issues raised within the observations can be summarised as follows:

- The proposal will increase traffic and will represent a traffic hazard. Similar concerns raised with respect to the proposed vehicular entrance and its location on a bend.
- The proposal will result in increased car parking pressures.
- Concerns with respect to the adequacy of the on site car parking.
- Concerns with respect to the construction phase of the proposed development and the disruption it would cause.
- The proposal is not in keeping with the character of the surrounding area.
- The proposal would set a poor precedent for similar development in the surrounding area.
- The proposal would represent a gross overdevelopment of the subject site.
- Concerns with respect to the loss of street trees and the impact of the proposal on the sylvan character of the surrounding area.
- Concerns with respect to the lack of consultation with nearby residents.
- Concerns with respect to the lack of detail on the application documents with respect to the extant permission on the larger landholding.
- The proposal lacks appropriate separations distances and will adversely impact the residential amenity of properties within the vicinity of the site.
- All proposals on the larger landholding should be considered in the context of their cumulative impact.
- Concerns with respect to overshadowing impacts.
- The proposal fails to accord with the pertinent policy of the County Development Plan.

- Drainage related concerns.
- Concerns with respect to the lack of an environmental impact study for the proposed development.
- The design of the dwelling will allow for a second bedroom to be added in the future.

4.0 Planning History

4.1. Appeal Site

F20A/0434: Planning permission refused by the Planning Authority in October, 2020 for development comprising the construction of a new detached 2 storey dwelling, with all associated site works, and provision of a new vehicular & pedestrian access exiting onto Seabury Park, Malahide, Co. Dublin. The application was refused for the following 6 no. reasons:

1. The proposed infill development is to located within the Seabury housing area which maintains a distinct residential character typified by house typology and design and a sense of visual harmony. It is considered that the massing design and height of the proposed dwelling would give rise to a significant negative impact upon the visual amenities of the surrounding area and be incongruous with the streetscape. As such to permit the proposed development would materially contravene the RS zoning objective pertaining to the subject site and Objectives PM44, DMS39, DMS40 and DMS44 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the restrictive nature of the subject site and the pattern of development within the surrounding area the provision of this infill dwelling located to the rear of the overall landholding would constitute overdevelopment of the subject site.
3. The proposed development in its current layout would give rise to a significant level of negative impact upon the existing residential amenity pertaining to the surrounding area in terms of overbearing, overshadowing and overlooking. To permit the proposed development in its current form would be contrary to

objective DMS28 and to the RS zoning objective and also be contrary to the proper planning and sustainable development of the area.

4. The proposed development in its current layout cannot achieve the required sightlines and as such constitutes a traffic hazard.
5. Vehicles emerging from the proposed parking area will be emerging blindly with no visibility of the pedestrian activity. 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.
6. Having regard to the lack of adequate information submitted with respect to the surface water drainage the applicant has failed to comply with the Sanitary Services Acts 1878-1964 (as amended) and the proposed development would therefore be prejudicial to public health.

4.1.1. **F20A/0474:** Planning permission granted by the Planning Authority in May, 2021 for the construction of a new detached 2 storey dwelling, the provision of a new pedestrian access existing onto Seabury Park and the provision of a new vehicular access existing onto Seabury Lawns.

4.1.2. **D09A/0179:** Planning permission refused by the Planning Authority in May, 2009 for development comprising the construction of a detached two storey house to side and new entrance. The application was refused for the following 2 no. reasons:

1. Having regard to the pattern of development in the area, it is considered that the proposed development of a new detached house in the side garden of the existing dwelling constitute over-development of a restricted site, would be out of character with the development in the area and would be visually intrusive from adjoining properties on Seabury Lawns and Seabury Park. Thus the proposed development would seriously injure the amenities of and depreciate the value of property in the vicinity.
2. The development by virtue of minimum separation distances between the existing dwelling and eastern boundary of the site would set an undesirable

precedent for the subdivision of plots within the estate for other similar developments, which would in themselves conflict with the pattern of development in this estate and would seriously injure the amenities of properties in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. National Policy

5.1.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

National Policy Objective 35 of the NPF seeks to “Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.2. Local Policy

5.2.1. Fingal County Development Plan, 2017-2023 (CDP)

The site is within an area zoned ‘RS’ of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is ‘to provide for residential development and to protect and improve residential amenity’. All lands within the immediate surrounds of the subject site are also zoned ‘RS’.

The following relevant policy objectives are noted:

PM44: Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

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

DMS24: Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.

DMS28: A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy.

DMS29: Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.

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

DMS40: New corner site development shall have regard to:

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- The existing building line and respond to the roof profile of adjoining dwellings.
- The character of adjacent dwellings and create a sense of harmony.
- The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.
- Side/gable and rear access/maintenance space.
- Level of visual harmony, including external finishes and colours.

DMS87 & DMS88: Relates to minimum open space provision for dwelling houses.

5.3. Natural Heritage Designations

- 5.3.1. The nearest designated site is the Malahide Estuary SAC (Site Code: 000205) and the Malahide Estuary SPA (Site Code: 004025), located c. 700m to the north of the site. The proposed Natural Heritage Area (pNHA): Malahide Estuary, is also located c. 700m to the site's east.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale the development which consists of the construction of a single house in a suburban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points raised in the First Party appeal can be summarised as follows:

- The Applicant is seeking full planning permission for the proposal as originally submitted to the Planning Authority, and the Board is requested to consider this option in the first instance. However, in response to the concerns of the Planning Authority and Third Party observers, the Applicant has instructed the design team to prepare an alternative design option for the consideration of the Board. It is stated that the alternative design option provides a contemporary designed residential dwelling that is more congruous with the existing streetscape showing a revised facade similar to existing dwellings and a flat roof so as to provide a contemporary element and show further subordination to the existing dwelling on site.
- It is also stated that the appeal submission is accompanied by a technical note, which provides a detailed response to the transportation related issues which were included as refusal reasons.
- The proposed development is fully compliant with Regional and National Planning Guidelines, which support the more efficient and sustainable use of zoned and serviced lands.
- The proposed development accords with the key objectives as included within the Regional Spatial and Economic Strategy for the Eastern and Midlands Region in that it contributes to compact growth targets.
- The proposed development is consistent with Project Ireland 2040, National Planning Framework where the target is for at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.
- The proposed development is consistent with the zoning provisions of the site, does not have an adverse impact on adjacent residential amenities and accords with the proper planning and sustainable development of the area.

- The proposed development can be classified as an infill development and it complies with the various qualitative and quantitative standards as set out within the Fingal Development Plan, 2017-2023 with respect of residential infill developments.
- The proposed dwelling is subordinate in scale and massing to the existing dwelling and complies with Objective DMS39 of the County Development Plan.
- Whilst the site is a backland development rather than a corner site development, it is contended that the proposed development and the alternative design option comply with Objective DMS40 of the County Development Plan.
- The proposed dwelling is compliant with Objective PM45 of the County Development Plan, in which a dwelling with a contemporary design is proposed.
- The proposed development provides an appropriate response to the quantity and quality of private open space.
- The subject site presents a unique opportunity to provide an additional dwelling on site. Precedent examples for similar types of infill developments have been identified within the Fingal administrative area which aid in justifying the proposal and are detailed within the appeal submission.
- It is again reiterated that an alternative design option has been prepared by the design team which addresses the concerns of the Planning Authority which were raised as part of their assessment of the original application.
- Appendices to the appeal submission include:
 - o Notification of decision to refuse planning permission.
 - o Alternative site plan.
 - o Roads and Access Report.

6.2. Planning Authority Response

- 6.2.1. Response received dated which acknowledges the submission of an alternative design proposal. However, it is unclear to the Planning Authority how the amended proposal would overcome the reasons for refusal. Concerns are highlighted with respect to the modified design and the proposal is considered to materially contravene Objective PM44, DMS39, DMS40 and DMS44 of the CDP. It is also indicated that the Transportation Planning section have reviewed the appeal documents and concerns

remain with the development as proposed. In the event of a grant of permission, it is requested that provision be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

6.3.1. A total of five (5) no. separate observations have been submitted from:

- Paul Comiskey.
- Pat & Bernie O'Mahony.
- Matthew Craig.
- Ann Kilmade and Eunan Gaffney.
- Patrick Finn.

6.3.2. For convenience, these are grouped together as similar concerns are raised. These issues raised are summarised as follows:

- A third house on this site would represent a gross overdevelopment of the overall site.
- Concerns with respect to the density of the proposed development.
- The proposal is not in keeping with the character of the area and fails to accord with Objective DMS40 of the current CDP.
- The current application would compromise the residential amenity of properties within the vicinity of the site and would set an undesirable precedent for the subdivision of plots within the estate and for other similar developments.
- The proposal is in conflict with the pattern of development in the area and contrary to the proper planning and sustainable development of the area.
- Concerns with respect to the creation of a new vehicular entrance and associated traffic related concerns.
- Concerns with the lack of vehicular sightlines.
- Concerns over the adequacy of the proposed car port.
- The proposed vehicular entrance does not comply with TII Document DN-GEO-03060 Geometric Design of Junctions. It is contended that section

5.6.3.7 of the TII document which uses the centre line of the entrance as the basis for determining the visibility splay, is not the appropriate standard for junctions with an acute angle. It is argued that a design standard such as 'Cork County Council - Making Places – a design guide for residential estate development', which measures sight splays from the edges of the entrance is the appropriate standard.

- In terms of sightlines, DMURS states that the X distance may be reduced to 2m in certain circumstances where vehicle speeds are low. The Applicant has not undertaken traffic surveys to justify this reduction in the standard.
- The Applicant has not undertaken an assessment of the cumulative effect that trees, located within the visibility splays, would have on emerging vehicles.
- On-street car parking is at a premium and the proposal will result in the loss of on-street car parking spaces.
- Seabury Park is heavily trafficked and is the sole access road to the adjacent Lissadel development.
- Concerns with respect to the loss of existing street trees.
- There are a number of contradictions in the submitted planning report, including;
 - o Neither the proposed designs submitted at either application or appeal stage are subordinate to the existing dwelling on site.
 - o Concerns with the substandard open space provision.
 - o Concerns the traffic consultant's data collection was taken place during periods of low traffic.
 - o Statements within the traffic consultant's report with respect to works to boundary walls are disputed
- An observer fails to understand the rationale behind seeking to advance the first option when the alternative is considered a superior design.
- Concerns with respect to an alternative proposal being put forward for consideration and the lack of opportunity for public engagement in this process.

- Concerns that the dwelling would be converted in the future to provide habitable accommodation at attic level.
- Concerns with respect to lack of detail regarding boundary treatments.
- Drainage related concerns associated with the proposed development.
- There is a lack of a third party consent for works that would be required to achieve adequate sightlines that are outside the control of the applicant.

6.4. Observations to the Planning Authority's Submission

6.4.1. A total of three (3) no. separate Third-Party observations have been submitted from:

- Paul Comiskey.
- Pat & Bernie O'Mahony.
- Patrick Finn.

6.4.2. For convenience, these are grouped together as similar concerns are raised. These issues raised are summarised as follows:

- There are concerns that the submission on the alternative design might not carry as much weight as formal Planning Authority decision would.
- The Planning Authority was never in a position to make a decision on the alternative design resulting in only the Board adjudicating on the design. This goes against the essence of the planning appeal process, where the Board is to look afresh at the initial decision of the Planning Authority.
- Concerns with respect to public participation process given an alternative design was submitted as part of the appeal.
- The proposal constitutes an overdevelopment of the subject site.
- The proposed development contravenes many objectives of the current CDP.
- The proposed development would compromise the residential amenity of properties within the vicinity of the site and would set an undesirable precedent for the subdivision of plots within the estate and for other similar developments.
- Continued concerns with the lack of detail with respect to drainage proposals.
- Concerns with respect to the loss of trees.

- The proposed development would have a negative impact on the environment, character and adjoining neighbours.
- The proposal is not in keeping with the character of the surrounding area.
- Concerns highlighted with respect to inadequate open space provision.
- The proposed development represents a traffic hazard.
- There is no safe parking available outside the proposed house.

6.4.3. A First Party observation has also been received in response to the Planning Authority's submission. A summary of the matters raised is included as follows:

- It is submitted, from the outset, that the arguments put forward in the First Party appeal present substantive reasoning for the grant of the subject application.
- It is stated that the proposed development (F22A/0246) proposed a pitched roof too integrate and maintain a more traditional approach relative to the existing built form. It is noted that the alternative design put forward at appeal stage addressed concerns regarding the roof height, the potential for overlooking and for the potential for this space to be utilised as habitable accommodation.
- It is contended that the proposed development has taken into account layout of the landholding and proposes a sensitively designed dwelling that incorporates features observed in the neighbourhood while also incorporating contemporary elements as sought by the Council.
- It is also purported that the intervisibility of emerging vehicles with footpath users and sightlines are not a concern and are achievable as demonstrated in the documentation supporting the planning appeal.

7.0 Assessment

The main issues are those raised in the Planning Report, the consequent reasons for refusal and the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development

- Design, Visual Amenity & Neighbourhood Character
- Vehicular Access
- Residential Amenity & Open Space
- Alternative Design
- Other Matters
- Appropriate Assessment

7.1. Principle of Development

7.1.1. The proposal seeks planning consent for an amendment to an extant permission (F20A/0474) comprising modifications to the site boundaries. The proposal also seeks planning consent for the construction of a new single storey detached dwelling within the rear amenity space of the existing dwelling on site. I note that the site is located on lands zoned 'RS' of the Fingal County Development Plan (CDP), 2017-2023, the objective of which is 'to provide for residential development and to protect and improve residential amenity'. Residential development is identified as a permitted in principle use on lands zoned 'RS'. Having regard to the pattern of development in the surrounding area and the applicable zoning designation, I am satisfied that the principle of a new dwelling at this location is acceptable. The issue that needs to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the design and layout, access, the impact on the amenities of adjoining residents, and the sustainable planning and development of the area.

7.2. Design, Visual Amenity & Neighbourhood Character

7.2.1. The appeal site is located within an established residential area, typically characterised by double storey, semi-detached dwellings of a similar architectural style. The appeal site is positioned on the corner of Seabury Lawns and Seabury Park and benefits from a generous area of amenity space to its side and rear which is atypical of the surrounding area. I note that there is an extant planning permission on the larger landholding for the construction of a double storey dwelling to the side of No. 1 Seabury Lawns. Given the infill nature of the proposed development, regard must be given to Objective DMS39 of the current CDP. The policy notes that "New infill development shall respect the height and massing of existing residential units.

Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings”. Within their assessment of the planning application, the Planning Authority have raised concerns with respect to the height and massing of the proposed dwelling, which they contend is not in keeping with the host dwelling and the dwellings located within the wider Seabury area.

7.2.2. I acknowledge that dwellings within the wider Seabury area display a level of uniformity and consistency in terms of their architectural style and detailing. Notwithstanding this, the appeal site is not located within an architectural conservation area, nor is the site located within close proximity of an existing Protected Structure. The proposed gable fronted dwelling which was refused by the Planning Authority has a distinctively contemporary architectural style. Although the proposal represents a departure from the prevailing neighbourhood character in design terms, the proposed dwelling has a single storey form which is subordinate in scale to the existing dwelling on site, the permitted dwelling on the larger landholding and dwellings within the surrounds of the site. I am therefore satisfied that the dwelling is respectful of the height and massing of dwellings within the surrounds and the proposed development is therefore consistent with the policy provisions set out under Objective DMS39 of the current CDP. I also note that the dwelling permitted under Reg. Ref. F20A/0474 has a contemporary architectural expression with a flat roof form. I do not consider the proposal to be visually incongruous within the existing streetscape context and I therefore consider the proposal to be acceptable having regard to visual amenity of the surrounding area.

7.2.3. Within the Planning Authority’s reason refusal, reference is made to the proposals non-conformity with Objective DMS44 of the current CDP. The policy seeks to “Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character”. I note that there are residential estates within the County that have map based local objectives that seek to ensure that development is in keeping with the layout, scale, design and character

of existing development. This is not the case in this instance, and I do not consider the appeal site and the wider Seabury estate to have a unique, identified residential character as purported by the Planning Authority. The area has a traditional suburban character and I am satisfied that the proposed dwelling has been designed to a high standard and can make a positive contribution to the existing streetscape. I am therefore satisfied that Objective DMS44 is not directly applicable to the development proposal.

7.2.4. Although the proposal can be described as an infill development, the larger landholding is located on a corner, and policy Objective DMS40 is therefore relevant to the development proposal. As noted in the foregoing, I am satisfied that the proposal responds appropriately to the character of the surrounds and it will not detract from the visual amenity of the surrounding area. I also note the policy seeks to encourage the provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain. I am satisfied that the proposed development will satisfy this requirement and will provide for an active frontage along this section of Seabury Park. Impacts on the residential amenity of neighbouring properties is a key consideration for corner site development under policy Objective DMS40 of the current CDP. This is discussed in further detail within the Section 7.3 of this report.

7.2.5. Having regard to the foregoing, I am satisfied that the proposed development would in fact represent a more efficient use of a brownfield site which benefits from good access to public transport and range of amenities and services given its location relative to Malahide. This is particularly relevant in the context of national policy objectives which seek to ensure that 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a) and which seeks to deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints (National Policy Objective 3a). Section 2.6 (Securing Compact and Sustainable Growth) of the National Planning Framework (NPF) also highlights that the preferred approach to development would be compact development that focuses on reusing previously

developed, 'brownfield' land, building up infill sites, which may not have been built on before and either reusing or redeveloping existing sites and buildings. I consider this to be directly applicable to the development proposal given the national policy objectives which now seek to secure compact and sustainable growth. I am therefore satisfied that the development proposal is in accordance with local through to national policy objectives and I recommend that planning permission be granted for the proposed development.

7.3. Vehicular Access

- 7.3.1. The proposed development includes the construction of a new vehicular entrance at the southern end of the site's boundary to Seabury Park. The entrance will lead to 1 no. car parking space located on the southern side of the proposed dwelling and will be enclosed by a car port. The Planning Authority refused planning permission for the proposed development as it was considered that proposal could not achieve the required sightlines and would therefore constitute a traffic hazard. In addition, concerns were highlighted that vehicles exiting the site would be emerging blindly with no visibility of pedestrian activity. I note that a number of Third Party observations have raised concerns with respect this aspect of the proposed development and the loss of street trees as a result of the creation of a new entrance at this location.
- 7.3.2. The appeal site is located in an urban residential area where a 30km/hr speed limit applies. As per the requirements of the Design Manual for Urban Roads and Streets (DMURS), sightline distance requirements are 23m visibility to the near-side edge of the road on both sides of the entrance, viewed from a 2.4m setback from the edge of the road at the entrance. DMURS does note that for a single access dwelling, a relaxation can be given so that the offset can be taken at 2m from the edge of the road which has been applied in this instance. The Planning Authority's Transportation Planning Section in their report on file, confirm that sightlines in excess of 23m are achieved at the location of the proposed vehicular entrance. This is also stated within the technical note prepared by the Applicant's consulting engineer. I note that photographs of measured sightlines are shown as an appendix to the technical note and correlate with the sightlines measured on the sightline drawings prepared by the

consulting engineer (i.e. Drawing No. 100). On the basis of the foregoing, I am satisfied that adequate sightline distances are achieved in accordance with the requirements of DMURS and the proposal will therefore not be prejudicial to public health by reason of a traffic hazard.

- 7.3.3. In terms of the intervisibility between pedestrians on the footpath and vehicles exiting the appeal site, the Planning Authority raised concerns that cars emerging from the site would have no visibility of the pedestrian activity on the public footpath running to the front of the parking area. This is due in part to the location of the entrance relative to the eastern boundary wall of the property to the south. Given the proposal seeks to remove the eastern boundary of the site, the concerns centre around pedestrians travelling north along the footpath on the western side of Seabury Park. Within the technical note submitted at appeal stage, reference is made to Section 5.6.3.7 (Direct Access Crossing a Footway) of Transport Infrastructure Ireland (TII) Publication DN-GEO-03060 (Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions)). The publication notes that where an emerging vehicle crosses a footway (at a lightly used direct access - for example from the driveway of a single dwelling), pedestrians may not have sufficient warning of its approach where there is no clearly formed differentiation in the level between the footway and the vehicle crossing point. The policy notes that in instances such as this, the designer shall provide visibility envelopes to the back of the footway, 2m on either side of the centre of the access, from 2m back from the back edge of the footway along the centreline of the access. On either side of the proposed entrance, low level piers (less than 600mm high) are proposed and Drawing No. 100 prepared by the Applicant's consulting engineer has provided the visibility envelopes as per Figure 5.17 of TII Publication DN-GEO-03060. Taken into consideration the limited number of additional traffic movements that would be associated with a dwelling of this size, the suburban context of the site and surrounds and the likely extent of pedestrian activity along this footpath, I am satisfied that the proposal is acceptable in this instance and the proposed development will not represent an unreasonable risk to pedestrian safety. I therefore consider the proposal

to be acceptable having regard to the proper planning and sustainable development of the area.

- 7.3.4. I note that concerns have been highlighted by Third Party observers with respect to the loss of existing street tree/s in order to facilitate the site's vehicular access. I note that at least one medium sized street tree will need to be removed at this location and I refer to 'The Forest of Fingal – A Tree Strategy for Fingal' which sets out the Council's policy for street tree planting, management and maintenance. This policy document is specifically referred to in Chapter 12 of the current CDP with respect to 'Tree Policy'. Section 4.8 (Planning and Design Guidelines for Trees and Woodlands) of this strategy notes that "Where permission is granted for the removal of street trees / vegetation on public property in order to facilitate the construction of a driveway/ entrance, road widening etc., the applicant shall be conditioned to pay a financial contribution for replacement tree planting in the vicinity of this development. This is to ensure that there is no net loss of tree canopy cover in the area." I therefore consider it reasonable in this instance for a condition to be attached to a grant of permission requiring the Applicant to pay a financial contribution for replacement street tree planting in the site's vicinity, the details of which are to be agreed with the Planning Authority prior to the commencement of development.

7.4. Residential Amenity & Open Space

- 7.4.1. The Planning Authority in their assessment of the application, and consequent reason for refusal, deemed the proposal to constitute an overdevelopment of the subject site taking into consideration, inter alia, the pattern of development in the surrounding area, the permitted and proposed dwelling on site and what they describe as the restrictive nature of the site. I note that a number of Third Party observations have raised concerns with respect to the impact of the proposed development on the residential amenity of properties within the vicinity of the appeal site. The dwelling refused by the Planning Authority has a gable fronted pitched roof with a maximum height of c. 5.6m above natural ground level and a maximum wall height of c. 3.35m. The southern elevation of the dwelling is set back by between c. 2.4m and c. 3.1m from its southern site boundary which it shares with Nos. 2 & 4 Seabury View. I note that a covered car

port extends to the southern site boundary. This car port has a total length of c. 5.4m and a maximum height of c. 2.6m above natural ground level and is located directly to the north of No. 2 Seabury View. Having regard to the overall scale, height and form of the proposed dwelling and car port, the set back of the dwelling from the southern site boundary and the orientation of the site, whereby the proposed dwelling is located to the north of the properties on Seabury View, I am satisfied that the proposal will not unduly compromise the residential amenity of the properties to the south of the site by reasons of overshadowing, loss of light or by being visually overbearing.

7.4.2. I note that No. 3 Seabury Lawns is located to the west of the appeal site. The proposed dwelling is located opposite the rear portion of its amenity space and a separation distance of c. 5m is provided between the rear façade of the proposed dwelling and the common boundary. Having regard to the height of the proposed dwelling and the separations distances provided, I am satisfied that the proposal will not unduly compromise the residential amenity of the properties to the west of the site by reasons of overshadowing, loss of light or by being visually overbearing.

7.4.3. In terms of overlooking, I note that the Planning Authority in their assessment of the planning application has had regard to the floor to ceiling heights proposed. It was stated that there would be an opportunity to provide for a first floor which would in-turn give rise to issues of overlooking. I refer to the recommended Condition No. 1, which requires the Applicant to comply with the plans and particulars lodged with the application and/or the planning appeal. Non-compliance with the submitted plans and particulars would be an enforcement matter for the Planning Authority. In this regard, given the single storey nature of the proposed development and the existing and proposed boundary treatments, I am satisfied that the proposed development would not result in undue overlooking of properties within the vicinity of the appeal site.

7.4.4. In terms of the residential amenity of the existing and permitted dwelling on the larger landholding, I have reviewed the application documentation submitted under Reg. Ref. F20A/0474 and both the existing and permitted dwellings have 3 no. bedrooms. Given a stated minimum of 60sq.m. of private open space is provided to the rear of each of

these dwellings, I am satisfied that the proposal is in compliance with Objective DMS87 of the current CDP which requires 3 no. bedroom houses or less to have a minimum of 60sq.m. of private open space located behind the front building line of the house. Although I acknowledge that the proposed dwelling shall directly abut the southern boundary of the permitted dwelling to the north, I note that the overall height of the structure is not dissimilar to what could be constructed within the rear amenity space of the permitted dwelling by way of the exempted development provisions as per Schedule 2, Part 1, Class 3 of the Planning and Development Regulations, 2001 (as amended) (c. 1m difference in the context of a pitched roof). Overall, I am satisfied that the proposed development will not unduly compromise the residential amenity of the existing and permitted dwelling on the larger landholding and is therefore considered acceptable having regard to the residential amenity of the surrounding area.

7.4.5. I note that the proposed dwelling will be served by an area of amenity space to its rear measuring c. 52sq.m. Although this is below the minimum standard prescribed under Objective DMS87 of the current CDP, policy Objective DMS88 allows for 'a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites'. The policy states no instance will the provision of less than 48sq.m. of private open space be accepted per house. Given the nature of the proposal (i.e. small infill/corner site), I am satisfied that policy Objective DMS88 is relevant to the consideration of the application. The open space area will benefit from a westerly orientation and is directly accessible from the main living quarters of the proposed dwelling. Overall, I am satisfied that the proposal will afford an acceptable standard of amenity to its future occupants and is in accordance with the pertinent policy of the current CDP

7.4.6. On the basis of the foregoing, I do not consider the proposal in instance to represent an overdevelopment of the appeal site and the proposed development will in fact represent a more efficient and sustainable use of this serviced brownfield site, where

there is regional and national policy support for development of this nature. I therefore recommend that planning permission be granted for the proposed development.

7.5. Alternative Design

7.5.1. As detailed in the grounds of appeal, the Applicant is seeking full planning permission for the proposal as originally submitted to the Planning Authority, and the Board was requested to consider this option in the first instance. However, in response to the concerns of the Planning Authority and Third Party observers, the Applicant had instructed the design team to prepare an alternative design option for the consideration of the Board which is included as part of the appeal. In summary, the amendments to the design of the dwelling comprise the replacement of the gable fronted pitched roof with a flat roof form. The palette of materials and finishes have also been modified to provide a brick finish on the front elevation. I note that both the Planning Authority and Third Party observers have continued concerns with respect to the alternative design put forward by the Applicant.

7.5.2. The appeal submission indicates that the alternative design option provides a contemporary designed residential dwelling that is more congruous with the existing streetscape showing a revised facade similar to existing dwellings and a flat roof so as to provide a contemporary element and show further subordination to the existing dwelling on site. Notwithstanding this, I am satisfied that the dwelling as originally proposed complies with the pertinent policy of the current CDP, is an architectural response for the site which can make a positive contribution to the streetscape and is acceptable at this location having regard to the residential of the surrounding area. Should the Board come to a different conclusion on this matter, I recommend the inclusion of a condition requiring the development to comply with the plans and particulars lodged with the planning appeal.

7.6. Other Matters

7.6.1. In terms of surface water drainage, I note that the Planning Authority's Water Services Department have raised no objection to the principle of the proposed development. However, a number of conditions have been recommended in the event of a grant of

planning permission. I therefore recommend a condition requiring all drainage arrangements, including the disposal of surface water, to comply with the requirements of the Planning Authority for such works and services.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, a dwelling on a serviced site, and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

8.0 Recommendation

- 8.1. Grant of permission is recommended.

9.0 Reasons and Considerations

- 9.1. Having regard to Project Ireland 2040: The National Planning Framework, and the relevant objectives which seek to consolidate residential growth in urban areas, and the provisions of the Fingal Development Plan 2017-2023, including the RS objective for the site, the specific characteristics of the site and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not represent a traffic hazard and would be in accordance with Policy Objectives DMS39 and DMS40 of the Fingal Development Plan, 2017-2023 and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall comply with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the Applicant shall enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Irish Water Standards codes and practices.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The design and layout of the proposed vehicular entrance shall comply with the requirements of the Planning Authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
6.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.</p> <p>Reason: In the interest of residential amenity.</p>

7.	<p>Site development and building works shall be carried out only between the hours of 8am to 7pm Mondays to Fridays inclusive, between 9am to 2pm hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
8.	<p>The Applicant shall pay to the Planning Authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of replacement tree planting in the vicinity of this development, as a result of the requirement to remove street tree/s to provide vehicular access to the site. This is to ensure that there is no net loss of tree canopy cover in the area. The amount of the contribution shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be</p>

	<p>referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Enda Duignan
Planning Inspector

22/11/2022