



An  
Bord  
Pleanála

## Inspector's Report ABP-314632-22

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<b>Development</b>	Demolition of house. Construction of house, modification and relocation of entrance and associated site works.
<b>Location</b>	Camelot, 43 Carrickbrack Road, Howth, Co. Dublin, D13 W212.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F22A/0329.
<b>Applicant</b>	Donal Breen.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant of Planning Permission.
<b>Type of Appeal</b>	Third Party v Grant of Planning Permission.
<b>Appellant</b>	Cheung Ka Percy Tse. Frank & Imelda Killeen.
<b>Observer(s)</b>	Roxanne White.

**Date of Site Inspection**

22/04/2023.

**Inspector**

Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is Camelot, No. 43 Carrickbrack Road, Howth, Co. Dublin. The site is located on the northern side of Carrickbrack Road, c. 200m to the north-west of the junction of Carrickbrack Road and Old Carrickbrack Road. The site comprises a detached double storey, pitched roof dwelling which has a south-west orientation and commands extensive views across Dublin Bay. There is a steep slope across the site and existing dwelling is significantly elevated relative to Carrickbrack Road. There is an existing vehicular entrance which leads to a garage at road level and a separate pedestrian entrance and connecting pathway, leads through the tiered front garden to the existing dwelling. The dwelling is also served by a garden area to the rear, a detached shed and series of steps leads up towards the rear site boundary which comprises an area of lawn and vegetation. The appeal site has a stated area of c. 0.0975ha.
- 1.2.** In terms of the surrounding area, there is a consistent pattern of residential development along this section of Carrickbrack Road, whereby dwellings are elevated relative to the adjoining road. The site is bound to the north-west by an existing detached dwelling known as Cuil Na Greine. To the south-east, the site is bound by another detached residential property known as Ard Na Ri.

## **2.0 Proposed Development**

- 2.1.** Planning permission is sought for the demolition of the existing dwelling on the appeal site and construction of a new double storey detached dwelling. The proposed dwelling has a stated floor area of c. 324sq.m. and will comprise an entrance hall, kitchen/dining/living room, utility, bathroom and den at ground floor level and 4 no. bedrooms (2 no. bedrooms with ensuite), bathroom and an office at first floor level.
- 2.2.** The proposed dwelling will have a contemporary architectural expression with a flat roof form and materials and finishes will comprise a combination of render (darker coloured) and cladding for the principal elevations. The dwelling has a maximum height of c. 8.2m and a total length of c. 22m.

- 2.3.** In addition to the open space to the front and rear of the dwelling, a cantilevered terrace is proposed to the dwelling's front which is directly accessible from the ground floor living room. The rear portion of the first floor level also cantilevers above the patio area to the rear of the dwelling. The proposal includes a degree of cut within the rear portion of the site and new patio area is formed which will be directly accessible from the first floor level bedroom (Bedroom No. 3). An additional terrace is proposed on the eastern side of the dwelling and includes full height slat screening on the dwelling's side elevation (south-east).
- 2.4.** The proposal seeks to close up and relocate the existing pedestrian entrance to the site. A new stepped walkway will lead from the entrance and adjacent to the site's north-western site boundary.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Fingal County Council granted planning permission for the proposed development subject to compliance with a total of 13 no. conditions.

Conditions of note included:

Condition 2.

The proposed development shall be amended accordingly;

a. The omission of the proposed window on the western elevation serving bedroom No. 3. A clerestory window, with an internal cill level of c. 1.8m above the floor level may be included within the elevation.

b. The omission of the proposed terrace on the eastern elevation at first floor level.

REASON: In the interest of residential amenity.

Condition 3.

Prior to the commencement of the development the developer shall submit for the written agreement of the Planning Authority plans and elevations at scale 1:100 and site layout plan at scale 1:200 to demonstrate the proposed steps along the western

boundary of the site. The developer shall ensure that the proposal is sensitive to the context of the level differences between the subject site and the adjoining site to the west.

REASON: In the interest of the proper planning and sustainable development of the area.

Condition 5.

All windows serving bathroom, en-suite and the landing window on the eastern elevation etc shall be fitted and permanently maintained with obscure glass, use of film is not acceptable.

REASON: In the interest of residential amenity.

Condition 10.

The developer shall comply with the following requirements of the Planning Authority;

(a) Prior to the commencement of the development submit a Landscape Plan prepared by a suitably qualified landscape designer/landscape architect. The landscape details shall consider the Howth SAAO Design Guidelines for any proposed boundary treatments (notably finishes & heights) and planting.

(b) A complete tree survey including an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement in accordance with BS 5837: 2012, Trees in relation to Design, Demolition and Construction - Recommendations is required. The tree survey and documents must be prepared by a suitably qualified arboricultural consultant. Of particular importance is the retention of boundary vegetation and mature trees.

REASON: In the interest of the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report**

The Fingal County Council Planning Report is the basis for the decision. The report provides a description of the appeal site and surrounds and an overview of the proposed development. The report sets out the planning history of the site and details

the planning policy that is relevant to the proposed development. The report also summaries the observations on the planning file.

In terms of the assessment of the application, the Planning Authority note that the applicant has not provided details of a site assessment to demonstrate how the consideration of the sensitive character of the site in its setting has been identified together with the rationale for the proposed demolition in terms of sustainability, noting the relevant policy objectives of the County Development Plan. It is also acknowledged by the Planning Authority that the site is surrounded with protected views and it is noted that no detailed visual impact assessment has been included, with the exception of the architect's impression. Notwithstanding this, it is contended that there is sufficient variation within the elevated streetscape to accommodate the proposed development without appearing unduly incongruous upon the established character of the area.

It is stated that no details of the proposed steps along the north-western boundary have been included to appropriately determine the extent of engineered works required along this mutual boundary where there is significant level changes between the sites on either side. The Planning Authority note that there are elements of the proposed development that could give rise to undue impacts to the adjoining Third Parties, such as a large bedroom window to the north-west side and the proposed balcony on the south east elevation. Accordingly suitable conditions have been recommended to be attached to a grant of permission. Subject to compliance with these conditions, it was considered that the proposed development accorded with the relevant policy and objectives of the County Development Plan and would integrate appropriately with the surrounding context without undue impact to the visual or residential amenities of the area.

### 3.2.2. Other Technical Reports

Water Services: Report received recommending additional information with respect to the requirement to provide an acceptable surface water drainage design.

Parks and Green Infrastructure: Report received recommending additional information with respect to the requirement for a visual impact assessment with verified views, landscape plan and an arboricultural report.

Transportation: Report received stating no objection subject to compliance with conditions.

### 3.2.3. Prescribed Bodies

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

### 3.2.4. Third Party Observations

14 no. observations were received by third parties. The issues raised within the observations can be summarised as follows:

- Concerns with respect to the demolition of the existing dwelling. It is stated that this is one of the least modified or extended Somali houses and provides cultural and architectural heritage as per the Howth SAAO and Fingal Development Plan Objectives. It is stated that it is also one of the most visible dwellings from Carrickbrack Road, where it can be clearly seen from the west, east and south.
- The Somali village which this area is known as, is of strategic importance both from an architectural and a scenic point of view. The proposal is at odds with the character of this area.
- The application lacks sufficient detail to allow for a full assessment of the application to be undertaken, including:
  - o Arboricultural assessment.
  - o Fire safety plan.
  - o Construction plan and traffic management plan.
  - o Structural assessment.
  - o Details of materials and finishes.
  - o Ecological assessment.
  - o Landscape and visual impact assessment.

- Site appraisal.
- Topographical survey.
- Concerns with respect to the mass and bulk of the proposed development on a narrow site which will be visible from the surrounding area.
- Concerns with respect to the scale and footprint of the proposed dwelling and the lack of a rationale as to why the proposal needs to be so big and elevated in such a manner over the adjoining neighbouring properties.
- Concerns highlighted with respect to the impact of the proposal on the residential amenity of adjoining properties by reason of overlooking, overshadowing and by being visually overbearing.
- The proposal to demolish the existing dwelling and replace it with a larger contemporary building, moved forward of the original location, with a substantial cantilever would result in a jarring intervention to the existing landscape and protected views.
- The proposed development constitutes an overdevelopment of the subject site.
- Concerns raised with respect to the potential for noise impacts associated with the proposed elevated terraces.
- It is unrealistic to suggest that the existing garage facing the road can be retained, whilst facilitating the construction phase of the proposed development.
- The proposal will result in the intensification of use and traffic hazard at the entrance to the application site.
- Concerns raised with respect to the loss of trees on site as a consequence of the proposed development.

## **4.0 Planning History**

### **4.1. The Subject Site.**

There is no recent history of planning applications on the appeal site.

### **4.2. Surrounding Area**

#### **Ard na Ri (south-east)**

**F14A/0175:** Retention permission granted for (a) lowering the front of the site for car



parking area,(b) installing pre-cast retaining walls, (c) front boundary wall faced in stone with automatic sliding entrance gates, (d) installation of concrete stairs incorporating storage room under same, (e) lift shaft for disabled access, (f) proprietary waste water treatment system with outfall to existing mains sewer. Permission granted for (1) Cedar Cladding and glazing to lift shaft, (2) Partial stone cladding to retaining walls, (3) General landscaping and all associated site works.

**F08A/0739 (ABP Ref. PL06F.230695):** Retention permission granted for a) lowering the front of the site for car parking area, (b) installing pre-cast retaining walls, (c) front boundary wall faced in stone with automated sliding entrance gates, (d) installation of concrete stairs incorporating storage room under same, (e) lift shaft for disabled access. (f) Proprietary waste water treatment system with outfall to existing mains sewer.

#### **Cuil na Greine (north-west)**

**F12A/0246:** Permission granted for the erection of a new vehicular gate and 2 no. piers at the top of the existing driveway, associated screen planting and landscaping works.

**F10A/0541:** Permission granted for the construction of a two storey extension with balconies, to rear of existing dwelling, single storey conservatory and porch roof to front of dwelling, addition of new vehicular gates and railings to existing driveway and front boundary wall, construction of underground car port with pedestrian and vehicular access to Carrickbrack Road along with all associated site works.

#### **4.3. Enforcement History**

None known.

### **5.0 Policy and Context**

#### **5.1. Climate Action Plan 2023 (CAP23)**

## **5.2. Fingal County Development Plan, 2023-2029 (CDP)**

5.2.1. The Fingal County Development Plan, 2023-2029 (CDP) came into effect on 5<sup>th</sup> April 2023, and after the decision of the Planning Authority to grant planning permission. 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'. The zoning objective applies to the lands along this section of the northern side of Carrickbrack Road. The lands to the north of the appeal site and opposite the site, on the southern side of Carrickbrack Road are zoned HA, the objective of which is to 'Protect and enhance high amenity areas'. The appeal site is also located within the Howth Special Amenity Area Order and there is an objective to 'Preserve View' along Carrickbrack Road and from the walkways to the south-west of the appeal site.

5.2.2. Section 9.6.16 (Special Amenity Areas) of the current CDP notes that Special Amenity Area Orders are in place for Howth and the Liffey Valley. The Council recognises that Howth is a great natural asset of the Greater Dublin Area having a rich natural, built and cultural heritage. It is the policy of the Council to ensure that these areas are protected and enhanced, and that enjoyment by the public is facilitated.

- Policy GINHP27 – Howth and Liffey Valley Amenity Orders Protect and enhance the special amenity value of Howth and the Liffey Valley, including its landscape, visual, recreational, ecological, geological, and built heritage value, as a key element of the County's Green Infrastructure network and implement the provisions of the Howth and Liffey Valley Special Amenity Area Orders (SAAO).

In addition to the foregoing, Policy CSP23 (Howth SAAO) seeks to 'Protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand.'

5.2.3. Given the nature of the development proposal, the following relevant policy objectives are noted:

- Objective SPQHO39 – (New Infill Development) 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.
- Objective SPQHO43 – (Contemporary and Innovative Design Solutions) Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.
- Objective SPQHO44 – (Retention, Retrofitting and Retention of Existing Dwellings) The Council will encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type.
- Objective DMSO256 (Retrofitting and Re-Use of Existing Buildings) – Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.
- Objective DMSO166 (Site Assessment) – A site assessment should be carried out prior to starting any design work to help inform and direct the layout, form and architectural treatment of the proposed development and identify issues that may need to be avoided, mitigated or require sensitive design and professional expertise. Features, structures or planting that add character or value to the site should be retained and the scheme designed around these.  
The site assessment should evaluate:
  - Character of the site and its setting.
  - Existing buildings/structures and their embodied carbon.
  - Access to the site.
  - Services.
  - Protected Designations.
  - Rare and Protected species both flora and fauna (e.g. bats, otters)
- Objective GINHO56 (Visual Impact Assessments) – Require any necessary

assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.

- Objective GINHO59 – (Development and Sensitive) Areas Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:
  - o Causes unacceptable visual harm.
  - o Introduces incongruous landscape elements.
  - o Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.
- Policy GINHP26 – (Preservation of Views and Prospects) Preserve views and prospects and the amenities of places and features of natural beauty or interest including those located within and outside the County.
- Objective GINHO60 – (Protection of Views and Prospects) Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development. Objective
- GINHO61 – (Landscape/Visual Assessment) Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects.

### **5.3. Howth Special Amenity Area Order (SAAO) 1999**

5.3.1. The appeal site is located within the boundary of the Howth SAAO and a 'Residential Area' designation applies to the site and 'Other Areas', as specified in Map A of the SAAO.

5.3.2. Further, the following features are identified for protection in the vicinity of the site (Map B of the Order):

- Road and footpaths to the south and south-west of the site from which views will be protected.
- Area of cultural importance to the south of the site on the opposite side of Carrickbrack Road.
- A proposed natural heritage area to the south and east of cliff walk.
- Heathland and maritime grassland to the north of the site.

5.3.3. Schedule 1 of the Order sets out a number of objectives for the enhancement of the Special Amenity Area. Objective 1.1 includes to manage the area in order to conserve its natural and cultural assets and protect the amenity of local residents.

5.3.4. Schedule 2 of the Order sets out objectives for the preservation of the character or special features of the area, these include, to preserve views from public footpaths and roads (Objective 2.1), to preserve woodland (Objective 2.5) and to preserve the wooded character of existing residential areas (Objective 2.6).

5.3.5. Schedule 3 of the Order sets out objectives in respect of development in residential areas, as defined in Map A. These include to protect residential amenity, to protect and enhance the attractive and distinctive landscape character of the areas and to ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas.

#### **5.4. Natural Heritage Designations**

5.4.1. The appeal site has a direct abuttal with the Howth Head SAC (Site Code: 000202). The Howth Head Coast SPA (Site Code: 004113) is also c. 1.6km to the east and the Rockabill to Dalkey Island SAC (Site Code: 003000) is located c. 600m to the site's south. The proposed Natural Heritage Area (pNHA): Howth Head, is also located c. 30m to the site's north.

#### **5.5. EIA Screening**

5.5.1. Having regard to the nature and scale the development, which consists of the construction of a replacement double storey dwelling on a serviced site, 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 application was the subject of 2 no. Third Party planning appeals which were prepared and submitted on behalf of Cheung Ka Percy Tse and Frank & Imelda Killeen. The Third Party appellants are the owners and occupiers of the properties to the north-west and south-east of the appeal site. The grounds of appeal are summarised as follows:

#### **Cheung Ka Percy Tse (Ard na Ri)**

- It is contended that the plans submitted by the Applicant are at variance with the character and pattern of development in the area, and that the impacts of the proposed development would be negative on adjoining residents and on road users.
- It is stated that the Applicant has failed to provide sufficient drawings for the neighbouring properties and the Planning Authority to fully and properly evaluate the impact of the proposed development. There are inadequate details, and the application should have been invalidated on this basis alone. The rock breaking and fixing of foundations will have further impacts on boundaries and tree retention.
- It is stated that the Planning Authority has sought to deal with the drainage concerns of their own department by condition, which is both insufficient and discriminatory as it precludes the appellant and his advisers from examining the drainage solutions on the site and the other possible impacts they could have on their property through flooding, subsidence, or other means.
- It is highlighted that only one car parking space is provided on site and cars can only enter and exit the garage in one direction, thereby creating serious road safety problems for existing road users. There's also a lack of detail with respect to bicycle parking.

- The proposed development fails to comply with the relevant policy of the County Development Plan.
- In terms of the principle of development, it is submitted that the demolition and replacement of the existing house with a very large replacement dwelling without any improvements to the existing vehicular access and car parking area is a gross and material contravention of the zoning objective for the area.
- Whilst the appeal site is not located within an Architectural Conservation Area, the appeal site has a distinctive character which must be protected.
- Whilst it is accepted that the design has many merits there are more fundamental issues that need to be addressed. Concerns are raised with respect to the sheer massing and extent of development relative to adjoining houses and would completely alter the views and ambience of the area. Concerns are highlighted with respect to the absence of photomontages as a comprehensive range of views and prospects cannot be established. It is contended that the scale and nature of development would detract from character and pattern of development of the area.
- Concerns are highlighted that the proposed development will adversely impact the residential amenity of the adjoining property. The appellant is particularly concerned about the balcony and fenestration on the east elevation, overlooking of the appellant's property, and which includes concerns about boundary treatment in relation to accuracy, loss of trees, lack of detail and ultimately overlooking and loss of privacy. It has highlighted that the Planning Authority conditioned the removal of this balcony. However, no recommendation was included as to what should be put in its place. This is considered to be at variance with the intent of the permission regulations, as the appellant is disqualified from commenting on these matters at compliance stage. It is stated that high level obscure glass could possibly be allowed on this east elevation if necessary, as this would protect the appellant's residential amenity.
- It is stated that as no daylight or sunlight analysis was included with the application, it is impossible to establish what impact the proposed large structure would have on the residential amenities of the adjoining property.

- It is stated that the failure of the planning application to detail construction works, particularly on the boundaries of the site is of particular concern. Concerns are also highlighted with respect to the omission of a landscape design and tree survey given the sensitivity of the site due to its location within the Howth SAAO.

### **Frank & Imelda Killeen (Cuil na Greine)**

- The appeal submission provides description of the site and surrounds, the proposed development and the planning policy that is relevant to the development proposal. The original observation to the application is also included as an appendix to the appeal.
- It is stated that the plans and elevations submitted with the application do not fully reflect the impact that the moving forward of the building line will have on the appellant's home. It is stated that this impact will be apparent when inspecting the appeal site.
- The difference in levels between the appeal site and the appellant's home is currently compensated for by the fact that the existing house on the appeal site is set back by approximately 4m from the building line of the appellant's home.
- Concerns have been highlighted within the appeal with respect to the Planning Authority's assessment of the planning application. Many relevant policies and objectives are listed by the Planning Authority. However, the assessment of the application fails to have regard to many of these policies and objectives. Concerns are also highlighted that the Planning Authority have failed to adequately address and respond to the issues of concern raised in the third Party observations on the planning file.
- It is highlighted within the appeal submission that the Planning Authority raised concerns with respect to the proposed development and the lack of detail included with the application. However, these matters were not adequately addressed within the assessment of the application. Concerns are also highlighted with respect to the lack of details with respect to engineering works that were highlighted by the Planning Authority and the appellant is not satisfied that this could be dealt with by way of condition which would be submitted and



agreed after a grant of planning permission is issued. The question is asked that how can a Planning Authority make a decision on a planning application when fundamental considerations, such as the degree of works to be carried out on site are entirely absent from the application package. Worryingly, no such condition was actually imposed by the Planning Authority on the decision to grant permission, indicating a disconnect between the planning assessment and the decision. At a minimum, the Applicant should have been required to submit a detailed engineering assessment including:

- Construction and demolition waste management plan.
  - Details of site storage compound and welfare facilities
  - Operational traffic management plan including parks of workers vehicles.
  - Geotechnical assessment and slope stability assessment.
  - Details of proposed foundation type including plans and sections.
- Reference is made to a relevant High Court judgment and it is stated that the Board cannot grant permission for this development due to the total absence of details regarding the foundations of the building or how the proposed structure will be supported on the sloping site.
  - Concerns are highlighted with respect to the potential for significant overlooking and overshadowing of the adjoining property. This impact will be exacerbated due to the setting forward of the building line relative to the appellant's property and the presence of elevated terraces which will result in direct overlooking of the adjoining amenity space. The conditions of the permission do not go far enough and will not resolve the genuine and obvious concerns of the appellant. It is stated that the proposed development is a monolithic structure clad in black with an oversized balcony terrace and overhanging canopies. In light of its design, scale, mass and height, it is simply too large for this restricted site and overlooking and overshadowing are just two more reasons why permission cannot be granted for this development.
  - The failure by the Planning Authority to consider and apply the policy of the Howth SAAO is another fundamental cornerstone of this appeal.
  - Concerns highlighted with respect to the surface water drainage proposal and the lack of detail which accompanied the application and was highlighted as an

issue of concern with the Planning Authority's water services section. It is stated that this matter can also be linked to Appropriate Assessment and it is unclear how the Planning Authority reached its conclusions in the absence of an engineering report, demonstrating that the site is geotechnically stable. This is particularly relevant given the appeal site abuts the Howth Head SAC.

- Whilst the appeal submission is not stating that potential impacts would or scenarios will arise, in the absence of full evidence to the contrary adverse impacts cannot be ruled out and therefore the conclusion that there is no likelihood of significant effects on any European site is considered to have been made in the absence of critical information and should be overturned.
- In terms of transportation related matters, the Board is requested to consider the traffic impacts of construction related traffic including delivery, construction vehicles and worker vehicles on the road network. It is stated that this matter could have been addressed in the form of a Construction Traffic Management Plan which was not submitted to the Planning Authority.
- References made to the various items that were requested by the Planning Authority's Parks and Greens Infrastructure Division. Although a condition has been included by the Planning Authority, the point or purpose of attaching this condition is questionable and appears to be a simple administrative exercise because the fact that permission has been granted means that regardless of the findings of any of these reports, the development can be carried out.
- Due to the steeply sloping nature and topography, it will be difficult to get a true perspective of the severe impact that the proposed development will have on the appellant's property. For that reason, the appellant's would be happy to facilitate a visit to their property so that it can be inspected.
- The residential amenity of existing homes must be a key consideration in the assessment of this appeal and ultimately, while some proposals may be capable of being amended by a way of condition, this is not one of those cases as there are simply too many gaps in the information submitted to facilitate a thorough and informed assessment of the proposal. In this regard, the only decision that can be issued is a refusal of permission.

## **6.2. Planning Authority Response**

A response has been received from the Planning Authority dated 4<sup>th</sup> October 2022 which confirms its decision and requests the Board to uphold the decision to grant permission.

## **6.3. First Party Response**

A response has been prepared on behalf of the Applicant. A summary of the matters raised include:

- The report sets out the planning rationale and justification for the development, including an assessment of the development, as approved by the Planning Authority having regard to the County Development Plan. A response to the grounds of appeal is also provided in the response.
- It is contended that the current proposal ensures the protection of adjoining residential amenities and resembles a harmonious alteration of the existing streetscape.
- In terms of overlooking and overshadowing, it is stated that the Planning Authority accepted that an element of overshadowing would occur during the morning and early afternoon. However, the Planning Authority did not accept the potential harm caused by the first floor level balcony on the eastern elevation and the window serving bedroom No. 3 on the western elevation. Therefore, these have been removed by way of condition. It is considered that the removal of these elements is sufficient to ensure no undue level of harm from overlooking and overshadowing of the adjacent properties will occur.
- In terms of visual impact, the response notes that is beneficial to speak about the existing Carrickbrack Road streetscape. Carrickbrack Road is made up of two-story detached dwellings in long, substantial sized plots. The varied streetscape character created by the mix of dwelling styles featured is added to, by the variety of materials and finishes utilised. The character of Carrickbrack Road has further diversified over the years as properties have been modernised and extended. The varied streetscape character of Carrickbrack Road is clear to see and is more than capable of handling the introduction of modern architectures such as that proposed. It is considered that

the proposed development represents an improvement to the visual amenity of the immediate area and is appropriate in the context of improving the visual interest in the streetscape. It is stated that the proposal will significantly increase the architectural quality and design of the built environment in the area and will promote excellence in the ordinary.

- The appeal submission refers to precedent decisions within the surrounding area and it is contended that the proposal will present an acceptable dwelling at this location, comparable to locally identified precedent.
- In conclusion, it is stated that the issues raised by the appellants have been comprehensively addressed in this response submission and it is submitted that the replacement dwelling has been designed and scaled in appropriate manner, in order to avoid any undue loss of residential amenities in the area.

#### **6.4. Observations**

An observation has been received from Roxanne White. A summary of the matters raised include:

- The applicant has failed to provide basic information which is necessary to the consideration of the development proposal. The conditions included by the Planning Authority prohibits the public from engagement in the process.
- Concerns regarding the scale and form of the development which is considered to be contrary to the policies of the Howth SAAO and the County Development Plan in terms of impacts on views and associated visual impacts.
- Concerns are raised that the proposal fails to respect the established building line and its impact on the character of the surrounding area.
- Concerns raised with respect to the changes conditioned by the Planning Authority including the requirement for a green roof.
- Concerns with respect to the demolition of the existing building given its contribution to the character of the surrounding area. The importance of the existing terracotta roof tiles is noted.
- Concerns with the proposed car parking arrangement which will constitute a traffic hazard.
- Drainage and flooding related concerns associated with the development

proposal.

- It is noted that anti-glare glass should have been conditioned.

## **6.5. Further Third Party Response**

A Third Party response to the Third Party appeal (Frank & Imelda Killeen) has been prepared and submitted on behalf of Cheung Ka Percy Tse. The response fully supports the issues raised in the additional Third Party appeal and the Board is requested to refuse permission for the proposed development.

## **6.6. Further Responses**

None sought.

## **7.0 Assessment**

The main issues are those raised in the Planning Report 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 & Demolition
- Design & Visual Impact
- Residential Amenity
- Trees & Landscaping
- Structural Works
- Appropriate Assessment

### **7.1. Principle of Development & Demolition**

- 7.1.1. I note that the site is located on lands zoned 'RS' of the Fingal County Development Plan (CDP), 2023-2029, the objective of which is to 'provide for residential development and to protect and improve residential amenity' and this zoning objective applies to the lands further to the north-west and south-east along the northern side of Carrickbrack Road. As noted in Section 5 of this Report, residential development is identified as a permitted in principle use on lands zoned 'RS'. Having regard to the established use on site, the pattern of development in the surrounding area and the

applicable zoning designation, I am satisfied that the principle of the proposed development is acceptable at this location.

7.1.2. Notwithstanding the foregoing, I note that it is a specific objective of the current CDP (Objective SPQHO44) for the Planning Authority to ‘...encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type’. When inspecting the appeal site, I observed the dwelling to be generally in a good state of repair and would appear to be currently occupied. Whilst I note that the appeal site is not a Protected Structure nor is it located within an ACA, the dwelling itself has architectural merit and provides a valuable contribution to the existing streetscape character. As per the Howth SAAO, the appeal site is located within an area referred to as the ‘Somali Village’. This section of Carrickbrack Road has a distinctively unique character, whereby dwellings are perched on the hillside above the public road and command extensive views across Dublin Bay to the south. I will discuss this particular matter in further detail within Section 7.2 of this report. Further to this, I am conscious of the policy contained within Section 14.21.1 (Re-use of existing Buildings) of the CDP, whereby applicants are encouraged to reuse and repurpose buildings and where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the “embodied carbon” of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. In addition, Section 14.19.1.2 (Existing Buildings/Structures) of the Plan notes that where structures exist on a site their embodied carbon needs to form part of the considerations for any redevelopment to ensure the proposal adheres to sustainable development goals. Adaptive re-use and transformation of existing buildings should be the first consideration before demolition and replacement’. Within their assessment of the planning application, the Planning Authority noted that details of a site assessment should have accompanied the application to demonstrate how the consideration of the sensitive character of the site

has been identified, together with the rationale for the proposed demolition in terms of sustainability, noting it is an objective of the previous CDP (2017-203) to retain and reuse the existing housing stock. However, I note that this particular matter was not explored or revisited within the assessment of the application. In the absence of a demolition justification report and given the architectural merit of the existing dwelling, the sensitivity of the appeal site and the areas distinctive character, the proposed development fails to accord with Objective SPQHO44 of the current CDP. Whilst I acknowledge that the existing needs of the Applicant may not be met by the current dwelling, in my view it has not been adequately demonstrated that this could not be achieved by renovating and/or extending the existing property rather than demolition in full and replacement. I therefore consider the proposal to be contrary to Objective DMSO256 (Retrofitting and Re-Use of Existing Buildings) of the CDP which seeks to 'Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible'. I have also had regard to the recently adopted Climate Action Plan which highlights that buildings represent a significant resource of 'sunk' or embodied carbon and their retention and reuse will be critical to avoiding unnecessary emissions associated with demolition and replacement. Whilst there may be a strong rationale or justification for its demolition and replacement with a single dwelling, this cannot be conclusively determined on the basis of the information on file.

## **7.2. Design & Visual Amenity**

- 7.2.1. As noted in the foregoing, the proposal seeks planning consent to demolish the existing dwelling on the appeal site and construct a new detached double storey dwelling. The dwelling, with a stated floor area of c. 324sq.m. has a distinctively contemporary architectural design with a flat roof form and materials and finishes comprise a combination of dark coloured render and cladding for the principal elevations. Extensive floor to ceiling height glazing is also proposed on the dwelling's front elevation. The ground floor level of the proposed dwelling shall be positioned at the same ground level as the existing dwelling. The ground and first floor levels are then proposed to be set forward of the existing dwelling's front building line so that it generally aligns with the front building line of the adjoining properties. I note that the ground floor level and the south facing terrace will cantilever above the sloped site and

the first floor level will cantilever above the terrace, partially enclosing it from above. The ground floor rear façade of the dwelling generally matches that of the existing dwelling. However, the first floor level projects above the existing rear courtyard. The proposal requires a degree of cut within the rear portion of the site to create a new courtyard area that will be directly accessible from Bedroom No. 3. In terms of the existing dwelling, it is evident that the building has a unique character and shares similar design features with many of the dwellings within the 'Somali Village'. As noted, Objective SPQHO44 seeks to retain and retrofit structurally sound, habitable dwellings that have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type which I deem to be relevant to the subject proposal. Given the architectural quality of the building and in the absence of a demolition justification report, I am not satisfied that this option has been adequately explored and whether the dwelling's demolition is warranted in this instance.

- 7.2.2. In terms of the proposed dwelling, both Third Party appeals have raised significant concerns with respect to the overall scale, form and massing of the proposed dwelling and its impact on the character of the surrounding area. As noted, the appeal site is located within the Howth SAAO, the objective of which is to protect many of the special qualities of the area and aims to preserve and enhance the character and special features of Howth. Given the areas designation, Objective DMSO166 is considered to be relevant to the consideration of a proposal which notes that 'a site assessment should be carried out prior to starting any design work to help inform and direct the layout, form and architectural treatment of the proposed development and identify issues that may need to be avoided, mitigated or require sensitive design and professional expertise. Features, structures or planting that add character or value to the site should be retained and the scheme designed around these...'. Whilst it is acknowledged that not every site may not require a detailed site assessment, I note that the appeal site occupies a prominent location along Carrickbrack Road and I consider it to be warranted in this particular instance given the overall scale of the proposed dwelling. Although the site layout plan shows that the dwelling will generally align with the front building line of the adjoining properties, I note that critically, the side elevations of the dwelling do not show the outline of the adjoining properties. In



addition, contiguous side elevations have not been included to show how the proposed development would sit in the context of the site and the relationship between it and the adjoining road. There is a significant level difference between the subject site and the adjoining property to the north-west (Ard na Ri). Given the overall scale, form and massing of the proposal, the dwelling will be positioned above the adjoining property and is likely to be clearly visible when viewed along Carrickbrack Road from the west and from the walking trails further to the south-west. In terms of the property to the south-east, I note that this is a dwelling of a substantial size. However, the dwelling has a tiered design with each floor set back further from the level below and therefore follows the topography of the site. The first floor level of the proposed dwelling is therefore likely to project beyond the upper level front building lines of this property and will form a visually prominent feature when viewed from the east along Carrickbrack Road.

- 7.2.3. Within the assessment of the proposal, the Planning Authority's Parks and Green Infrastructure Division in their report on file requested the submission of a Landscape Visual Impact Assessment with verified views to include viewpoints from public paths within the SAAO area from where the proposed dwelling will be visible including Redrock and Carrickbrack Road. Notwithstanding this, permission was granted in the absence of this information. Whilst it is not a mandatory requirement to provide this level of detail, I note that the assessment of the proposed development would be aided by the submission of verified views. This is particularly relevant in the absence of side elevations which show the proposed development in the context of the adjoining properties (including contiguous side elevations) and given the sensitivity and prominence of the site. Although I accept that a contemporary architectural response for the site may be acceptable at this location, and there is no doubt that the dwelling is designed to a high standard, I have significant concerns with the respect to the potential visual impact of the proposed development and I am not satisfied that its design appropriately responds to the sensitivities of the site and existing streetscape context. It is also my view that the potential visual impact of the proposal is exacerbated by the first floor level projection to the front, whereby this level will cantilever above the ground floor and is exposed on each side given its siting relative

to the adjoining properties. This potential impact could be significantly reduced by shifting the footprint of the dwelling further to the north (rear) of the site and reducing the floor area of the first floor level so that it is set back from the ground floor level and nestled into the hillside.

### **7.3. Residential Amenity**

7.3.1. The Third Party appellant's have raised significant concerns with respect to the potential impact of the proposed development on the residential amenity of their properties. In terms of Cuil na Greine to the north-west, I note that there is a significant level difference between the two sites, whereby the appeal site is elevated relative to this property. On its north-western side, the proposed dwelling has a total length of c. 26.5m and is set back a minimum of c. 1.4m from the shared boundary. It would appear that the ground level of the dwelling will remain unchanged from the existing scenario and the dwelling will have a maximum height 8.1m. I note that the Planning Authority acknowledged that there would be a degree of overshadowing of this property in the morning and afternoon period. However, this was deemed acceptable. Although no shadow analysis has been submitted, it is evident that there would be a degree of impact given the length of the dwelling and its height relative to the adjoining property. Notwithstanding this, the appellant's property benefits from a large area of open space to its front and rear and I am satisfied that the proposal will not unduly diminish its residential amenity. Notwithstanding, the design suggestions outlined in Section 7.2 of this report would minimise this impact further should a future application be forthcoming on the site.

7.3.2. In terms of overlooking, I note that the Planning Authority have included a condition requiring the first floor window on the first floor western elevation serving Bedroom No. 3 to be omitted. Although the appellant's property benefits from a private open space area to the rear, I note that dwelling has a south facing terrace to its front and is likely to be regularly utilised given its aspect and orientation. Given the siting of the proposed terrace and its elevated position relative to appellant's property and their south facing terrace, I would have concerns with respect to the potential for undue overlooking of the adjoining property. Should the Board be minded to grant permission for the

proposed development, I would recommend the inclusion of a condition requiring the incorporation of screening to a height of 1.7m on the north western side of this terrace as a means to mitigate the potential impact on the adjoining property.

- 7.3.3. On its south-eastern side, the proposed dwelling will have a total length of c. 26.5m, is set back a minimum of c. 1.8m from the shared boundary and will have a maximum height 8.1m. I note that the application or appeal was not supported by a shadow analysis or daylight study. Notwithstanding this, having regard to the siting of the proposed dwelling relative to this property, its elevated position relative to the appeal site and the overall height the proposed dwelling, I am generally satisfied that the proposed development will not unduly compromise the residential amenity of the adjoining property by reasons of overshadowing or loss of light. However, the Third Party appellant, raised significant concerns with respect to the potential for undue overlooking of their property. The appellant is particularly concerned about the balcony and fenestration on the south-east elevation and the lack of clarity about boundary treatments. It is highlighted by the appellant that the Planning Authority conditioned the removal of this balcony. However, concerns are highlighted that no recommendation was included as to what should be put in its place. Although I acknowledge that the omission of the balcony has been included as a condition of permission, I note that extensive first floor level glazing is proposed on the south-eastern elevation which will serve the hallway and is set back c. 4.5m from the shared boundary. Notwithstanding this, the proposed first floor level window is located opposite the side wall of the adjoining property which currently lacks fenestration. I am therefore satisfied that proposed arrangement will not give rise to undue overlooking of the adjoining property to the south-east.

#### **7.4. Trees & Landscaping**

- 7.4.1. The Planning Authority refer to the commentary of the Parks and Green Infrastructure Division, who note the location of the appeal site within the Howth SAAO area and within an area designated as having a Highly Sensitive Landscape. I note that Objective 2.6 of the Howth SAAO seeks 'to preserve the wooded character of existing residential areas'. As part of the additional information recommendation, the Applicant

was requested to submit a landscape plan, a landscape visual impact assessment and a complete tree survey, including an arboricultural impact assessment etc. Within their assessment of the planning application, the Planning Authority noted that these issues could be addressed by way of condition. Given the nature of the proposed development, the site's prominence and sensitivity of the receiving environment, I am not satisfied that these matters could or should be addressed post consent, through the planning compliance process. Due to the slope's steep topography and given the complexities associated with a build of this nature, it is likely that the proposal would necessitate extensive vegetation removal across the site. In the absence of an arboricultural assessment, it is also unclear whether the proposed development may impact on the ongoing viability of trees on adjoining sites which may be located within close proximity of the site boundaries. Although, I note a condition has been included which has highlighted the importance of retaining boundary vegetation and mature trees, it is unclear whether this is achievable in the absence of this information. Therefore, I would recommend that any future application be supported by these relevant assessments to allow for a thorough assessment of the application to be undertaken.

## **7.5. Structural Works**

- 7.5.1. Significant concerns have been highlighted within the appellant's submissions with respect to the potential impact of the proposed development on the structural integrity of the adjoining dwellings and their curtilage. I note that the proposal seeks to provide a new stepped walkway along the north-western boundary. Within their assessment of the planning application, the Planning Authority noted the significant level differences between the two properties and highlighted that no details of the proposed stepped walkway have been included to appropriately determine the extent of engineered works required. A condition (Condition No. 3) has been included by the Planning Authority requiring details of the proposals for the walkway to be submitted prior to the commencement of development. Although I note that the finished ground floor level of the proposed dwelling will match that of the existing dwelling, the footprint is substantially larger, and the elevations show the front portion of the dwelling cantilevering above the lawn area to the south. When examining the elevations, it

would appear a degree of fill is required to support the front portion of the proposed dwelling. However, the plans lack detail with respect to the modified ground levels so the height by which the southern terrace extends above the garden area remains unclear. In order to allow a full assessment of the application, existing and proposed contiguous side elevations should have been submitted to show the full extent of works proposed across the site. It is not possible to ascertain what exactly is being proposed on basis of the submitted front and rear contiguous elevations. I also note that no details have been submitted with respect to existing and proposed boundary treatments or whether the proposal requires works to same. Therefore, any future application on the site should include this level of information including details of all engineered works that would be required to facilitate the proposed development.

## **7.6. Vehicular Access & Drainage**

- 7.6.1. In terms of site access, the proposal seeks to retain the existing vehicular entrance and garage which is directly accessible from Carrickbrack Road. Concerns have been highlighted with respect to the adequacy of the existing entrance and the potential impacts associated with the construction phase of the development and how this element of the development is to be managed. Although I am satisfied that the proposed retention of the access and car parking arrangement for the proposed dwelling is acceptable, I would recommend the inclusion of a condition requiring the submission of a construction management plan for written agreement should the Board be minded to grant permission for the proposed development.
- 7.6.2. In terms of surface water drainage, the Water Services Department of the Planning Authority notes that the application mentions discharge to soakaway. However, details of same have not been shown on the submitted plans. Given the topography of the appeal site, it noted that the inclusion of a soakaway may be difficult and there would therefore appear to be an opportunity to incorporate green roofs on the flat roof. In this regard, a condition has been included by the Planning Authority requiring the Applicant to submit an acceptable surface water drainage design for written agreement prior to the commencement of development. Given the overall size of the site and the flat roof form of the dwelling, whereby opportunities arise for the provision of green roofs, I am

satisfied that this matter could be adequately addressed by way of compliance with a condition.

## **7.7. Appropriate Assessment**

7.7.1. I note that there are a number of European sites within the surrounds of the appeal site and the appeal site has a northern abuttal with the Howth Head SAC (Site Code: 000202). Notwithstanding this, I note that there are no works proposed within the northern portion of the site adjacent to the boundary and the proposed dwelling is located downhill from the protected site. Having regard to the nature and scale of the proposed development, the construction of a replacement dwelling on a serviced site, and to the nature of the receiving environment, 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**

I recommend that the planning application be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. Having regard to the architectural merit of the existing building, its current condition and the contribution it makes to this section of Carrickbrack Road which has a unique and identifiable streetscape character, it is considered that the proposed development is contrary to Objective SPQHO44 of the Fingal County Development Plan, 2023-2029 which seeks to ‘...encourage the retention and retrofitting of structurally sound, habitable dwellings in good condition as opposed to demolition and replacement and will also encourage the retention of existing houses, such as cottages, that, while not Protected Structures or located within an ACA, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character or accommodation type’. In the absence of a demolition justification report (as required by Section 14.21.1 (Re-use of existing buildings) of the Plan), the proposed development

is also considered to be contrary to Objective DMSO256 (Retrofitting and Re-Use of Existing Buildings) which seeks to 'Support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. By reason of the scale and form of the proposed dwelling, insofar as it projects forward of the existing building and above the immediately adjoining properties and in the absence of a Landscape Visual Assessment and contiguous side elevations to show the proposed development in the context of Carrickbrack Road and the adjoining properties (i.e outlined on elevations), it is considered that the proposed development will have a detrimental impact on the character this section of the Carrickbrack Road streetscape, which is located within the Howth SAAO and where there is an objective along Carrickbrack Road 'To Protect Views'. The proposed development is considered to be contrary to Objective GINHO56 of the Fingal County Development Plan, 2023-2029 and is therefore, contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Enda Duignan  
Planning Inspector

31/05/2023