



An  
Bord  
Pleanála

## Inspector's Report ABP-315375-22

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### Question

Whether the demolition of 2 no. single-storey extensions and construction of single-storey extension and garden room is or is not development or is or is not exempted development

### Location

St. Fintan's, Strand Road, Sutton,  
Dublin 13

### Declaration

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

FS5/067/22

Applicant for Declaration

Gerard Curley and Sarah Callaghan

Planning Authority Decision

Split Decision

### Referral

Referred by

Applicant

Owner/ Occupier

Gerard Curley and Sarah Callaghan

Observer(s)

None

Date of Site Inspection

15<sup>th</sup> December 2023

Inspector

Philip Maguire

## **1.0 Site Location and Description**

- 1.1. The referral site is a corner plot located at the junction of Strand Road and St. Fintan's Road, in Sutton, Dublin 13, and to the western side of the Howth peninsula. Sutton Cross is 1.4km to the northwest, Howth town centre is 2.5km northeast and Bull Island is 1.3km west of the site. The immediate area is entirely residential. The streetscape is characterised by a mix of period and more modern dwellinghouses addressing Dublin Bay. The immediate road network is poorly aligned with very limited forward visibility. Footpaths in the area are intermittent and non-continuous. There is none on St. Fintan's Road where the site access is located. The posted speed limit is 50kph.
- 1.2. The referral site is flat and irregular shaped. It has an area of c. 0.11ha. It consists of a contemporary house, set in the former garden of 'Stonehaven' (now 'Saltwater'), a mid-19<sup>th</sup> century semi-detached, three-bay, two-storey Georgian-style house over raised basement, which is listed in the Record of Protected Structures (ref. 928). The house is set back on the site and positioned at an angle to the road. It is a two-storey building with A-line roof structure and attached flat roof garage to the front and portico structure to the side, covering the entrance. Site boundaries are a mix of natural stone and concrete block walls. There is a planted garden to the front and tightly contained amenity space to the rear which is screened by a wall extending from the portico.

## **2.0 The Question**

- 2.1. The matter has been referred by the applicants for the declaration. The description of the proposed development, as outlined in section 5 of the application form, is "demolition of 2 no. existing previously-constructed single-storey extensions and construction of 1 no. single-storey extension and single-storey garden room".
- 2.2. In addition to the application form, the submission to the Planning Authority included:
  - Supporting cover letter prepared by Brennan Furlong Architects; and
  - Architectural drawings prepared by Brennan Furlong Architects.
- 2.3. The referral documentation date received 16<sup>th</sup> December 2022 includes a supporting statement prepared by Brennan Furlong Architects in addition to architectural drawings albeit not directly related to the referred question.

### 3.0 Planning Authority Declaration

#### 3.1. Declaration

3.1.1. A split-decision declaration was issued on 1<sup>st</sup> December 2022.

3.1.2. Under Schedule 1 it states:

*The works comprising of a garden room are development and are exempt development under the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001, as amended.*

3.1.3. Under Schedule 2 it states:

*The works comprising of the provision of the extension is development and is considered not to be exempt development under the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001 by reason of its location in the side garden and the development does not relate to the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

#### 3.2. Planning Authority Reports

3.2.1. Planning Report dated 1<sup>st</sup> December 2022:

- Basis for the Planning Authority decision.
- It describes the existing extensions which are to be demolished. One being L-shaped (shaded blue on the submitted drawings) with a gross floor area of 16.3sq.m, lean-to roof height of c. 4.4m and located to the rear of the property. The other extension (shaded orange on the submitted drawings) is described as being to the side of the house with a gross floor area of 15sq.m and a height of 3.6m. It also describes the proposed extension in the side garden of the house with a floor area of 39.5sq.m and a 'garden room' located in the side garden, forward of the proposed extension.
- In terms of planning history, it notes a refusal for a replacement dwelling under PA ref. F21A/0374 which was upheld on appeal under case ref. ABP-312490-22.

- It considers that the demolition of the existing extensions and the provision of an extension and garden room is development having regard to Section 3 of the Act.
- It considers that the proposed demolition is exempted development having regard to Class 50(b) of Part 1 of Schedule 2 of the Regulations and the associated conditions and limitations. In this respect, it states that the existing extensions do not abut on another building in separate ownership and notes that the extensions have an area of 31.3sq.m.
- It considers that the proposed extension relates to a side extension and does not relate to 'the conversion for use as part of a house of any garage, store, shed or other similar structure attached to the rear or to the side of the house' as provided for under Class 1 of Part 1 of Schedule 2 of the Regulations.
- It considers that the proposed 'garden room' is exempted development having regard to the provisions of Class 3 of Part 1 of Schedule 2 of the Regulations and the associated conditions and limitations. In this respect, it states that the structure is located to the side of the property and behind the front building line and notes that the structure has a stated area of 24.5sq.m and height of 3m, and more than 25sq.m of private open space remains. It also notes that the finishes are similar to the house and is to be used for a purpose incidental to the enjoyment of the house.
- It considers that no AA or EIA issues arise.
- It concludes that the applicant meets the conditions and limitations for a garden room/shed and it is therefore exempted development under Class 3 of Part 1 of Schedule 2 of the Regulations.
- It recommends that a split-decision declaration be issued under Section 5 of the Act in the terms cited above.

## 4.0 Planning History

### 4.1. Recent applications:

- 4.1.1. PA ref. F23A/0424 – in October 2023 the Planning Authority granted permission for refurbishment-type works including external stairs to front serving roof-terrace and new garden room with covered bicycle store to the side etc. Condition 3 limits the use

of the garden room to that being incidental to the enjoyment of the dwelling. Condition 4 restricts the use of the garden room for guest or sleeping accommodation etc.

4.1.2. PA ref. F23B/0033 – in May 2023 the Planning Authority granted permission for works including the installation of a window to the first-floor front façade etc.

4.1.3. PA ref. F21A/0374 – in August 2022 the Board upheld the Planning Authority decision and refused permission for a replacement dwelling (ref. ABP-312490-22). Having regard to the location of the appeal site along a stretch of public road served by a bus route, with a notable change in gradient, lacking a pedestrian footpath along the site frontage, and in the absence of supporting information such as a verified speed survey with the application and appeal documentation etc., the Board considered that the proposed development would endanger public safety by reason of a traffic hazard.

4.2. Recent declarations and referrals:

4.2.1. PA ref. FS5/007/23 – in March 2023 the Planning Authority declared that the construction of a garden room which is not accessed internally from the house, but accessed directly from the garden was development and was exempted development.

4.2.2. PA ref. FS5/073/22 – in January 2023 the Planning Authority declared that alterations to internal layouts of existing dwelling and associated minor modifications and upgrading of external elevations was development and was exempted development.

4.3. Adjacent sites:

*Stonehaven ('Saltwater')*

4.3.1. PA ref. F23A/0067 – in May 2023 the Planning Authority granted permission for works to the protected structure to include installation of kitchen to entrance level of original dwelling along with associated works.

## **5.0 Policy Context**

### **5.1. Fingal Development Plan 2023-2029**

5.1.1. The current Development Plan came into effect on 5<sup>th</sup> April 2023. The Planning Authority decision of 1<sup>st</sup> December 2022 was made under the previous Plan for the period 2017-2023. This referral shall be considered under the current Plan.

- 5.1.2. The site is zoned 'Residential' with a zoning objective to *'provide for residential development and protect and improve residential amenity'*. The vision for this zoning seeks to *'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'*.
- 5.1.3. The referral site also lies within a Coastal Landscape Character Type, which is identified as being highly sensitive to development (Table 9.3). I also note that the referral site lies immediately east of a Specific Objective to 'Preserve Views'.
- 5.1.4. The main objectives relevant to the proposed development are set out in chapters 3 (Sustainable Placemaking and Quality Homes), 9 (Green Infrastructure and Natural Heritage) of the Written Statement. The following sections are particularly relevant:
- 3.5.13.1 – Residential Extensions
  - 9.6.14 – Landscape Character Assessment
  - 9.6.15 – Views and Prospects
- 5.1.5. Summary of the relevant policies and objectives:
- |         |  |
|---------|--|
| SPQHP41 | Support the extension of existing dwellings with extensions of appropriate scale and subject to the protection of residential and visual amenities.                                    |
| GINHP25 | Seeks to ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape.                              |
| GINHO58 | Seeks to resist development which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve. |
| GINHP26 | Seeks to preserve views and prospects and the amenities of places and features of natural beauty or interest.  |
| GINHO60 | Seeks to protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.         |

## **5.2. Natural Heritage Designations**

- 5.2.1. The referral site is located to the east of North Dublin Bay SAC (site code 000206) and North Bull Island SPA (site code 004006), separated by the site boundaries, the Strand Road including sea wall and coastal defence wall along the nearest section of strand.
- 5.2.2. Other European sites which lie in the vicinity of the referral site include:
- Howth Head SAC (000202)
  - Rockabill to Dalkey Island SAC (003000)
  - Howth Head Coast SPA (004113)
  - North-West Irish Sea SPA (004236)
- 5.2.3. North Dublin Bay and Howth Head are also proposed Natural Heritage Areas (pNHAs).

## **6.0 The Referral**

### **6.1. Referrer's Case**

- 6.1.1. The referrer's case can be summarised as follows:
- It suggests the Planning Authority's declaration in respect of the proposed extension was determined on the basis that they considered it was located in the side garden of the house, as opposed to the rear garden and it is stated that this contradicts previous assessments of the site by both the Planning Authority and An Bord Pleanála. This forms the crux of the referrer's case.
  - In subsequent regard, the referrer provides extracts purportedly from a pre-application consultation report dated April 2021, a Planning Officer's report in respect of a previously refused application under PA ref. F21A/0374 and the subsequent Inspector's report under case ref. ABP-312490-22.
  - In respect of the pre-application consultation report, it notes that the Planning Authority previously considered the front elevation as the west-facing façade, orientated towards Strand Road, and therefore the rear elevation is east-facing.
  - In respect of the Planning Officer's report, it notes that the property address is confirmed as Strand Road as opposed to St. Fintan's Road and the house was

described as a 'gable-fronted dwelling' which they state faces Strand Road and accordingly the opposite gable must be to the rear.

- In respect of the Planning Inspector's report, it notes that the first-floor balcony/terrace was described as being to the front of the dwelling.
- It is submitted that all parties concurred that the front of the house faces west towards the Strand Road, the side of the dwelling which includes the entrance door faces towards St. Fintan's Road, and the rear therefore faces east towards Old Quay House, and this is the elevation off which the extension is proposed.
- From an architectural perspective, it states that the front elevation – the elevation designed to face the public realm and towards which visitors would approach – is the Strand Road facing elevation. It also suggests that the portico structure would make no architectural sense if the southern elevation was in fact the front elevation, as suggested by the Planning Authority, as one of the supporting columns blocks rather than frames the entrance door when viewed from St. Fintan's Road.

## **6.2. Planning Authority Response**

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

- It states that the extension was assessed under Class 1 of Part 1 of Schedule 2 of the Regulations and submits that the house fronts onto St. Fintan's Road to which the front door faces.
- It considers that the proposal relates to a side extension and does not relate to the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.
- It requests that the Board uphold the decision of the Planning Authority.

## **7.0 Statutory Provisions**

7.1. The relevant provisions are set out in the Planning and Development Act 2000, as amended, ('PDA 2000 or the Act') and the Planning and Development Regulations 2001, as amended, ('PDR 2001 or the Regulations').



## 7.2. Section 2 – PDA 2000

7.2.1. Section 2(1) provides the following interpretations which are relevant:

“alteration” includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“habitable house” means a house which—

- (a) is used as a dwelling,
- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or
- (c) was provided for use as a dwelling but has not been occupied;

“structure” means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate etc.; and

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.

## 7.3. Section 3 – PDA 2000

7.3.1. Except where the context otherwise requires, “development” is defined as:

*The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.*

## 7.4. Section 4 – PDA 2000

7.4.1. Section 4(1) provides a list of statutory exemptions, including:

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

7.4.2. Section 4(4) provides that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

**7.5. Section 5 – PDA 2000**

7.5.1. Section 5(3)(a) provides for a referral of a declaration for review by the Board within 4 weeks of the date of issuing of the declaration.

**7.6. Section 177U – PDA 2000**

7.6.1. Section 177U(9) provides that in deciding a referral under S. 5 the Board, shall where appropriate, conduct an AA screening in accordance with the provisions S. 177U.

**7.7. Article 5 – PDR 2001**

7.7.1. Article 5(2) provides that “ground level” means the level of the ground immediately adjacent to the structure and where the level of the ground where the structure is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

**7.8. Article 6 – PDR 2001**

7.8.1. Subject to the restrictions in Article 9, Article 6(1) provides for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Sch. 2, subject, where applicable, to the conditions and limitations opposite such classes as set out in column 2.

7.8.2. Schedule 2, Part 1 (Development within the curtilage of a house), Class 1:

<i>Column 1</i>	<i>Column 2</i>
<i>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</i>	<i>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i> <i>[...]</i> <i>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.</i> <i>[...]</i>

	<p>4. (a) <i>Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</i></p> <p>(b) <i>Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</i></p> <p>(c) <i>The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</i></p> <p>5. <i>The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i></p> <p>6. (a) <i>Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p>[...]</p> <p>7. <i>The roof of any extension shall not be used as a balcony or roof garden.</i></p>
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7.8.3. Schedule 2, Part 1 (Development within the curtilage of a house), Class 3:

<i>Column 1</i>	<i>Column 2</i>
<i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i>	<p>1. <i>No such structure shall be constructed, erected or placed forward of the front wall of a house.</i></p> <p>2. <i>The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</i></p>

	<p>3. <i>The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</i></p> <p>4. <i>The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</i></p> <p>5. <i>The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</i></p> <p>6. <i>The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</i></p>
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7.8.4. Schedule 2, Part 1 (Miscellaneous), Class 50(b):

<i>Column 1</i>	<i>Column 2</i>
<i>The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</i>	

7.9. **Article 9 – PDR 2001**

- 7.9.1. Article 9 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would:

*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*

*(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

#### **7.10. Precedent Referral Cases**

7.10.1. The following referral determinations by the Board provide some useful context.

##### *Determining the rear of a house*

7.10.2. Under case ref. RL3358, the Board considered whether the as-built extension at 10 Ballynoe Grove, Bray, Co. Wicklow was or was not development etc. In deciding not to accept the Inspector's recommendation that the development was exempted development, the Board did not share her view that the private amenity space serving the house would necessarily comprise a rear garden. The Board considered that the rear of the house is normally opposite to the front of the house and that, in this particular case, the location of the front and principal elevation of the house, having a front door and entrance hallway, is clear. The Board did not share the Inspector's view that a rear garden could be to the side of this house. In this case, the rear of the house abuts another house, and there is no rear garden. The Board was satisfied that, in this case, the private amenity space serving the house was to the side of the house.

7.10.3. Under case ref. RL2620, the Board considered whether the erection of a sunroom to the western gable of an existing house at Gort na Carraige, Slate, Newcastle, Co. Wicklow was or was not development etc. In this case the referrer stated that the rear

of a house is that part of a house furthest from and out of view of the main road. The Inspector considered that the front elevation of a house is normally the elevation which includes the front door, and the rear elevation normally includes the rear door, although not always the case. The Inspector did not agree with the referrer's interpretation of the 'rear of the house' noting that the 'the front elevation (at the opposite end of the house to the proposed extension) comprises a blank wall'. The Inspector did not consider this would be a reasonable interpretation of 'front' and 'rear'.

- 7.10.4. Under case ref. RL2441, the Board considered whether works comprising *inter alia* an extension to a dwelling at Carrick, Lough Ennell, Kilbeggan, Co. Westmeath was or was not exempted development etc. In deciding that the extension was development and not exempted development, the Board concluded that the extension was to the side of the house. In determining the position of the house, the Inspector took into account the characteristics of the site and its landscape context, features of the dwellinghouse and fenestration. The Board appeared to agree with this approach.
- 7.10.5. Under case ref. RL2310, the Board considered whether the construction of an extension to an existing dwelling at The Cove, Cosheen, Schull, Co. Cork was or was not development etc. In deciding not to accept the Inspector's recommendation the Board concluded that the extension was primarily to the side of the existing house.
- 7.10.6. Similarly, under case ref. RL2107, the Board considered whether an extension at 2 Ardfoile Crescent, Ballintemple, Cork was or was not development etc. In deciding not to accept the Inspector's recommendation the Board concluded that the extension was not entirely to the rear of the house and projected significantly to the side.

#### *Demolition and extension*

- 7.10.7. Under case ref. RL3313, the Board considered whether the demolition of a single-storey return and the construction of a new single-storey extension to the rear of the property at 135 Castle Avenue, Clontarf, Dublin 3 was or was not development etc. In deciding that it was development and exempted development, the Board concluded that the demolition of the previous rear return occurred in connection with development in accordance with Class 1, and so was in accordance with Class 50(b) of Part 1 of Schedule 2 of the PDR, and the said works provided an extension of no more than 40sq.m to the rear of the house in accordance with Class 1 of Part 1 of Schedule 2.

*Garden rooms, domestic gyms etc.*

7.10.8. Under case ref. ABP-307272-20, the Board considered whether the construction of a garden room/gym to the side of the existing dwelling, was or was not development etc. In this case, the Inspector was satisfied that the proposal complied with condition and limitation 6 pertaining to Class 3 of Part 1 of Schedule 2 of the PDR as the proposed structure would only be used for purposes incidental to the enjoyment of the house. The Board agreed and concluded that it would come within the scope of Class 3.

7.10.9. Under case ref. ABP-302959-18, the Board considered whether an extension and outhouse at 8 Herbert Park, Bray, Co. Wicklow was or was not development etc. The Board concluded that the outhouse would come within the scope of Class 3 of Part 1 of Schedule 2 of the PDR if used as a gym or other purpose incidental to the enjoyment of the house and would not come within the scope of Class 3 if used for human habitation as it would not comply with condition and limitation 6 of this particular class.

#### **7.11. Precedent Judgements**

*Improvement of a structure etc.*

7.11.1. In *Michael Cronin (Readymix) Ltd v An Bord Pleanála and Others [2017] IESC 36, [2017] 2 I.R. 658*, the Supreme Court considered whether an extension to a structure (a concrete yard within a quarry) constituted exempted development. The court agreed with the Board's submission that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An "improvement", for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

*Matters previously determined*

7.11.2. In *Narconon Trust v An Bord Pleanála and Others [2020] IEHC 25*, the High Court held that the Board was precluded from determining a S. 5 referral in circumstances where a planning authority has previously determined substantially the same question in respect of the same land and where there is no evidence of a change in planning facts and circumstances since the planning authority's initial determination on the matter.

## 8.0 Assessment

### 8.1. Preliminary Points

- 8.1.1. The question has arisen as to whether the demolition of two existing, previously-constructed, single-storey extensions and the construction of a single-storey extension and a single-storey garden room is or is not development, and if so, is or is not exempted development. The question has been referred by the applicant/landowner.
- 8.1.2. The individual elements are crystalised as follows in the referral submission:
- Construction of a single-storey garden room; and
  - Demolition of 2 no. existing previously-constructed single-storey extensions and the construction of 1 no. single-storey extension.
- 8.1.3. The Planning Authority issued a split-decision in respect of the referred proposal, considering that the garden room was development and exempted development and the provision of the extension is development and not exempted development under the PDA 2000 by reason of its location in the side garden and where the development does not relate to the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

### 8.2. Development – *Is or is not?*

- 8.2.1. The previously-constructed extensions are located to the side and rear of what is illustrated as the “original floor area” of the house. The extension to the side, shaded in orange, is indicated as a kitchen with a stated floor area of 16.30sq.m. The extension to the rear, shaded in blue, is indicated as a sitting room with a stated floor area of 15sq.m. Both extensions will be demolished, the latter required to facilitate the proposed rear extension which is a 3.30m high flat roof structure, with a stated floor area of 39.50sq.m. It accommodates two bedrooms, a bathroom and an office. The proposed garden room, which incorporates a WC, is attached and to the south of the proposed extension, but not internally linked. It too is a flat roof structure, 3m in height with a stated floor area of 24.50sq.m. A number of window openings are illustrated in both structures and the external finishes are indicated as ‘proposed painted render’.



- 8.2.2. The referred question evidently includes elements of demolition and construction. Section 2(1) of the PDA 2000 defines “works” as including “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal” etc. I am satisfied that, in accordance with the above definition, the proposed demolition, extension and garden room constitutes ‘works’. This is not disputed by the parties.
- 8.2.3. In terms of Section 3(1)(a), “development” means, except where the context otherwise requires, the carrying out of works on, in, over or under land etc. I am therefore satisfied that these ‘works’ comprise ‘development’ and this is not a source of dispute.

#### *Conclusion on Development*

- 8.2.4. The proposed demolition, extension and garden room is development.

### **8.3. Exempted Development – *Is or is not?***

- 8.3.1. Having established that the proposed demolition, extension and garden room is development, one must now consider whether it is, or is not, exempted development.
- 8.3.2. Section 4(1)(h) of the PDA 2000 provides a statutory broad exemption for the carrying out of works for the maintenance, improvement or other alteration of any structure etc. Having visited the site, reviewed the drawings and having particular regard to the judgement in *Michael Cronin (Readymix) Ltd. v An Bord Pleanála*, I do not consider that this exemption applies. It is therefore necessary to consider the referred question in terms of the express provisions under the PDR 2001. I will now do so as follows.

#### *Demolition*

- 8.3.3. Class 50(b) of Part 1 of Schedule 2 of the PDR 2001 exempts the demolition of part of a habitable house in connection with the provision of an extension in accordance with Class 1 of Part 1 of Schedule 2. I am satisfied that the demolition of the side and rear extensions, as described above, would fall within the scope of this exemption insofar as it would be connected to the clearing of part of the footprint of the proposed extension in addition to achieving compliance with the relevant conditions of Class 1, as considered below. The Planning Authority did not raise any concerns in this regard.

#### *Extension*

- 8.3.4. Class 1 of Part 1 of Schedule 2 of the PDR 2001 exempts the extension of a house, by the construction of an extension to the rear of the house. Defining the location of

the proposed extension was central to the Planning Authority's declaration and forms the crux of the referrer's case. In short, the Planning Authority submit that the proposed extension is to the side of the house and the referrer submits that it is to the rear. This is where the dispute lies. In support of their position, the Planning Authority suggest that the front of the house is south-facing, having regard to the location of the front door, and as a corollary the east-facing elevation is to the side and not the rear. Having inspected the site, this is a position I find extremely difficult to reconcile with.

- 8.3.5. As previously noted by the Board, the rear of a house is normally opposite the front and principal elevation of the house. In this regard, the principal elevation is evidently the west-facing elevation. Apart from the entrance door and portico structure with arched openings, the south-facing elevation is an otherwise blank façade and could not reasonably be considered as the principal elevation. And whilst I accept that the front elevation of a house normally includes the front door and entrance hall, this is obviously not the case in this instance, although the arched portico with porthole above can also be read from the west-facing, or front elevation, which would appear to me to be a deliberate design feature in terms of layout and orientation. Moreover, the front elevation is clearly framed by the vehicular entrance and this, to me, is determinative.
- 8.3.6. I therefore agree with the referrer and the authors of the various planning reports prior to, and indeed since, the subject referral in respect of the referral site. The front elevation of the house is the west-facing elevation, addressing Strand Road and therefore the rear of the house is the east-facing elevation where the extension is to be sited. In this regard, whilst I am conscious of the precedent cases cited above, I note that each individual case differs and should be determined on its own merits.
- 8.3.7. Condition and limitation 2(a) of Class 1 of Part 1 of Schedule 2 of the PDR 2001 provides that where a house has been extended previously, the floor area of a proposed extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1<sup>st</sup> October 1964, including those for which planning permission has been obtained, shall not exceed 40sq.m. As noted, the previously-constructed extensions are located to the side and rear of the original floor area of the house and they have a cumulative floor area of 31.30sq.m. In the absence of the demolition of these extensions, the referrer would exceed the 40sq.m threshold. Therefore, the proposed extension is purely contingent on, and evidently connected

to, the demolition of the kitchen and sitting room. Subsequent to such demolition, the proposed 39.50sq.m extension appears to fall within the scope of Class 1 of Part 1.

- 8.3.8. Condition and limitation 4(b) of Class 1 of Part 1 of Schedule 2 of the PDR 2001 provides that where the rear wall of the house includes a gable, the height of the walls of the extension shall not exceed the height of the side walls of the house. As noted above, I am satisfied that the east-facing elevation is the rear wall of the house, and it evidently includes a gable. The south-facing side elevation includes the portico structure which has an eaves level of 9.10mAOD and would appear to be the lowest of the side walls of the house. The proposed extension has a parapet level 8.90mAOD and roof level of 8.75mAOD and would appear to satisfy this condition and limitation.
- 8.3.9. Condition and limitation 5 of Class 1 of Part 1 of Schedule 2 of the PDR 2001 provides that any such extension to the rear of the house shall not reduce the area of private open space to the rear of the house to less than 25sq.m. The layout drawing illustrates a semi-enclosed courtyard area (Courtyard 1) entirely to the rear of the house. It has a stated area of 27.50sq.m and would appear to satisfy this condition and limitation.
- 8.3.10. Condition and limitation 6(a) of Class 1 of Part 1 of Schedule 2 of the PDR 2001 provides that any window proposed at ground level in any such extension shall not be less than 1m from the boundary it faces. The proposed extension incorporates a number of window openings with the shortest separation distance to the neighbouring boundary which it faces being 1.539m. This condition would appear to be satisfied.
- 8.3.11. Condition and limitation 7 of Class 1 of Part 1 of Schedule 2 of the PDR 2001 provides that the roof of any extension shall not be used as a balcony or roof garden. Given the nature of the proposed internal layout of the house with kitchen / dining and living space at first floor level, the referrer is proposing to utilise the existing, adjoining balcony to the front of the house and use of the flat roof of the proposed extension to the rear is unlikely. Moreover, it would require a new door opening to facilitate access. Notwithstanding, compliance with this condition is primarily an enforcement matter.

#### *Garden Room*

- 8.3.12. As noted, the proposed garden room has a 3m high, flat roof structure, with a stated floor area of 24.50sq.m. It is attached to the south of the proposed extension but not internally linked. The Planning Authority have declared that this element is exempt

under Class 3 of Part 1 of Schedule 2 of the PDR 2001 which exempts the construction of any garage, store, shed or other similar structure etc. within the curtilage of a house.

- 8.3.13. Condition and limitation 1 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 restricts any such structure from being constructed forward of the front wall of a house. The proposed garden room is sited entirely to the rear and complies with this limitation.
- 8.3.14. Condition and limitation 2 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 provides that the total area of such structures shall not, taken together with any other such structures previously constructed within the said curtilage, exceed 25sq.m. The proposed garden room has a stated floor area of 24.50sq.m. The proposed drawings do not indicate any other similar structures within the curtilage of the house except for the attached garage to the front of the house and this appears to be part of the original house. Therefore, the proposed garden room appears to comply with this condition.
- 8.3.15. Condition and limitation 3 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 provides that any such structure to the rear of the house shall not reduce the area of private open space to the rear or to the side of the house to less than 25sq.m. As noted above, Courtyard 1 which has a stated area of 27.50sq.m is located entirely to the rear of the house. An additional courtyard (Courtyard 2) is located to the north-facing side of the house and could also be considered as private open space. It also has a stated area of 27.50sq.m. The proposed garden room appears to comply with this condition.
- 8.3.16. Condition and limitation 4 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 provides that the external finishes of any such structure to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house. As noted, the garden room has a flat roof structure and is located to the rear of the house. This condition and limitation does not therefore apply to the garden room. Although the external finishes appear to conform with the house in any event.
- 8.3.17. Condition and limitation 5 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 provides that the height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4m or, in any other case, 3m. As noted, the proposed garden room has a flat roof structure, 3m high, and complies with this condition.
- 8.3.18. Condition and limitation 6 of Class 3 of Part 1 of Schedule 2 of the PDR 2001 provides that the structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose

incidental to the enjoyment of the house as such. The garden room would appear to be laid out as additional living space, suggested by the referrer as a “children’s den”. If an internal link did exist between it and the proposed extension, it would ostensibly comprise part of the extension for human habitation. This does not appear to be the case however and I note that the Board have previously accepted that Class 3 of Part 1 applies to a gym-type use where such usage is incidental to the enjoyment of the house. I am therefore willing to accept this broad interpretation of Class 3 usage.

- 8.3.19. Moreover, in March 2023 the Planning Authority declared that a similar garden room on the referral site to that being proposed, which was not accessed internally from the house, but accessed directly from the garden, was development and was exempted development under PA ref. FS5/007/23. This declaration was not challenged by way of a referral to the Board and therefore I am mindful of the Board’s jurisdiction having regard to the *Narconon Trust* judgement as there is no evidence of a change in planning facts and circumstances other than the siting and layout of the garden room.

#### *Conclusion on Exempted Development*

- 8.3.20. In the absence of any other legal provision to exclude the exemptions, the proposed demolition of the side and rear extensions, and subsequent construction of a single-storey extension and garden room to the rear, would appear to be exempted development under Classes 50(b), 1 and 3 of Part 1 of Schedule 2 of the PDR 2001.

### **8.4. Restrictions on Exempted Development**

- 8.4.1. As noted, the referred proposal comes within the scope of Classes 1, 3 and 50 of Part 1 of Schedule 2 of the PDR 2001. The development must now be considered in light of the statutory restrictions set out under Section 4(4) of the Act and under Article 9(1)(a) of the PDR 2001. Section 4(4) de-exempts any development where Appropriate Assessment (AA) or Environmental Impact Assessment (EIA) is required. A similar de-exemption is provided for under Article 9(1)(a)(viiB) in respect of AA only.
- 8.4.2. The following paragraphs set out my assessment of the relevant provisions under Section 4(4) of the PDA 2000 and Article 9(1)(a) of the PDR 2001. In this regard, the Board should note that the referred development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the PDR 2001 and therefore no preliminary EIA examination is required as provided for under Article 132C of the PDR 2001.

### ***Appropriate Assessment – Screening***

- 8.4.3. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for AA of a project under section 177U of the Act are considered fully hereunder.

#### *Test of likely significant effects*

- 8.4.4. The project is not directly connected with or necessary to the management of a European site and, therefore, it needs to be determined if the referred development is likely to have significant effects on European sites.
- 8.4.5. The referred development is examined in relation to any possible interaction with European sites designated as Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European sites in view of the conservation objectives of those sites.

#### *European Sites*

- 8.4.6. The referral site is not located within a European site. Having regard to the source-pathway-receptor (S-P-R) model, a summary of 6 no. European sites occur within a possible zone of influence as outlined in section 5.2 above. There is a pathway between 3 no. of these and the referral site. These are North Dublin Bay SAC (10 metres), North Bull Island SPA (20 metres) and Rockabill to Dalkey SAC (1.5km).
- 8.4.7. The other sites listed in section 5.2 have either no pathway between the referral site and the Natura 2000 site or, hydrologically, the combination of distance, dilution and dispersal would have no significant impact on these sites.

#### *North Dublin Bay SAC*

- 8.4.8. According to the Site Synopsis, North Dublin Bay SAC covers the inner part of north Dublin Bay, the seaward boundary extending from the Bull Wall lighthouse across to the Martello Tower at Howth Head. The North Bull Island is the focal point of this site.
- 8.4.9. This SAC is selected for the following habitats:
- [1140] Mudflats and sandflats not covered by seawater at low tide
  - [1210] Annual vegetation of drift lines
  - [1310] *Salicornia* and other annuals colonising mud and sand
  - [1330] Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

- [1395] Petalwort *Petalophyllum ralfsii*
- [1410] Mediterranean salt meadows (*Juncetalia maritimi*)
- [2110] Embryonic shifting dunes
- [2120] Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes) \*priority
- [2190] Humid dune slacks

8.4.10. Map 3 of the Conservation Objectives Series illustrates the distribution of mudflats and sandflats not covered by sea water and Map 4 shows their marine community including 'fine sand to sandy mud' along the strand area close to the referral site. Map 5 illustrates the distribution of saltmarsh habitats, the qualifying interests (QI's) of which include *Salicornia* and other annuals colonising mud and sand, Atlantic salt meadows and Mediterranean salt meadows. These QI's are focussed to the west of Bull Island. Map 6 shows the distribution of sand dune habitats and petalwort, the QI's of which include annual vegetation of drift lines, embryonic shifting dunes, shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes'), fixed coastal dunes with herbaceous vegetation ('grey dunes') and humid dune slacks. These QI's are focussed to the east of Bull Island. Other than the tidal mudflats and sandflats, the referral site is remote to the majority of QI's for which this SAC has been selected.

8.4.11. The Conservation Objectives for the North Dublin Bay SAC includes the requirement to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.

#### *Rockabill to Dalkey SAC*

8.4.12. According to the Site Synopsis, Rockabill to Dalkey SAC includes a range of dynamic inshore and coastal waters. These include sandy and muddy seabed, reefs, sandbanks and islands. It extends southwards, in a strip c. 7km wide and 40km in length, from Rockabill, running adjacent to Howth Head, and crosses Dublin Bay to Frazer Bank in south Co. Dublin. It includes Dalkey, Muglins and Rockabill islands.

8.4.13. This SAC is selected for the following habitat/species:

- [1170] Reefs
- [1351] Harbour porpoise *Phocoena phocoena*

8.4.14. Map 3 of the Conservation Objectives Series illustrates the distribution of reefs and I note that the referral site is substantially removed from the closest mapped location. Map 5 indicates that the Harbour porpoise is prevalent throughout the SAC.

8.4.15. The Conservation Objectives for the Rockabill to Dalkey SAC includes the requirement to maintain the favourable conservation condition of reefs and Harbour porpoise. With regard to Harbour porpoise, I note that a survey carried out in 2016 (O'Brien, J. and Berrow, S.D.) for a report to the NPWS (November, 2016) indicates that populations are stable when compared against similar surveys carried out in 2008 and 2013.

#### *North Bull Island SPA*

8.4.16. According to the Site Synopsis, the North Bull Island SPA covers all of the inner part of north Dublin Bay, with the seaward boundary extending from the Bull Wall lighthouse across to Drumleck Point at Howth Head. The island is home to two golf courses, a Nature Reserve and Dollymount Strand, which extends along the east side.

8.4.17. In addition to Wetlands [A999], this SPA is selected for the following species:

- [A046] Light-bellied Brent Goose *Branta bernicla hrota*
- [A048] Shelduck *Tadorna tadorna*
- [A052] Teal *Anas crecca*
- [A054] Pintail *Anas acuta*
- [A056] Shoveler *Anas clypeata*
- [A130] Oystercatcher *Haematopus ostralegus*
- [A140] Golden Plover *Pluvialis apricaria*
- [A141] Grey Plover *Pluvialis squatarola*
- [A143] Knot *Calidris canutus*
- [A144] Sanderling *Calidris alba*
- [A149] Dunlin *Calidris alpina alpina*
- [A156] Black-tailed Godwit *Limosa limosa*
- [A157] Bar-tailed Godwit *Limosa lapponica*
- [A160] Curlew *Numenius arquata*



- [A162] Redshank *Tringa totanus*
- [A169] Turnstone *Arenaria interpres*
- [A179] Black-headed Gull *Chroicocephalus ridibundus*

8.4.18. The Conservation Objectives for North Bull Island SPA seek to maintain the favourable conservation condition for each of the bird species for which the SPA has been selected. In this regard, I note that site population trends are generally increasing, and the site conservation condition is favourable for the majority of species (Table 4.3).

#### *Identification of Likely Effects*

8.4.19. The referral site is hydrologically connected to the North Dublin Bay SAC, North Bull Island SPA and Rockabill to Dalkey SAC. On this basis, I consider that potential impacts associated with the construction and operational phase of the referred development primarily relate to potential impacts on water quality including:

1. the deterioration of water quality as a result of sediment and pollution loads arising during the construction phase; and
2. the deterioration in water quality as a result of sediment, pollution loads, hard surface flood/water runoff etc. during the operational phase.

8.4.20. During the construction phase there is potential for surface water runoff from site works to temporarily discharge overland to the adjacent North Dublin Bay SAC and North Bull Island SPA, both connected to the Rockabill to Dalkey SAC. However, in the absence of streams or drainage ditches on, or bounding, the referral site, the hydrological connection is indirect and extremely weak. The intervening house, garden and walls, and road and gullies, mean that water quality in these sites will not be negatively affected by any contaminants, such as sediment from the demolition and other construction activities. It is unlikely that this aspect of the construction phase will result in significant environmental impacts that could affect European sites within the wider catchment. Moreover, no significant dewatering will occur during this phase, and in this regard, I note the Ground Waterbody WFD Status for 2016-2021 is 'good'.

8.4.21. During operation, it is anticipated that foul water from the referred development will be disposed of through the public foul sewer network as per the existing arrangements for the house. There will be no significant additional loading on the receiving WWTP given the minor increase in the population equivalent of the house i.e. two additional

bedrooms. Similarly, it is anticipated that surface water will be subject to SuDS and then discharged to the surface water network, prior to discharging to the sea. No adverse direct or indirect impact will arise on the water quality of the Natura 2000 sites.

#### *Consideration of other effects*

- 8.4.22. Airborne pollution during construction, namely dust, is not likely to affect the North Dublin Bay SAC, which consists of mudflats etc. As noted, the more sensitive receptors of this SAC are in the vicinity of North Bull Island, c. 1km away, and dust will settle before this point. Noise disturbance on bird species that occur in the SPA as a result of the works can also be ruled out due to distance from their favoured locations. I also note that the site offers no supporting habitat, *ex situ* or otherwise for such species including those whose populations are in decline within the SPA.
- 8.4.23. Other extant development is similarly served by urban drainage systems and the WWTP. A NIR was prepared for the Development Plan which included the residential zoning for the site. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified here.
- 8.4.24. The referral site is not immediately adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or *ex-situ*. The existing environment includes a WWTP and urban drainage systems. The acceptable distance between the referred works and any European sites, and the weak and indirect stormwater pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network.

#### *Screening Determination*

- 8.4.25. It is therefore reasonable to conclude that the referred development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC, Rockabill to Dalkey SAC or North Bull Island SPA, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 AA (and submission of a NIS) would not be required before consent, if it were authorised.
- 8.4.26. Accordingly, the restrictions on exempted development status provided for in Article 9(1)(a)(viiB) of the PDR and Section 4(4) of the Act do not apply in this instance.
- 8.4.27. No mitigation measures were relied upon to reach this screening determination. SuDS, if utilised, are considered to be standard features inherent in such a project.

## Other Relevant Restrictions

### *Article 9(1)(a)(i) – Contravention of a condition etc.*

- 8.4.28. I note that permission has been granted on the referral site under PA refs. F23B/0033 and F23A/0424 since the Planning Authority's declaration in this matter, with the latter being for alterations and additions to facilitate the refurbishment of the house. The permitted drawings illustrate the garden room that was declared exempted development under PA ref. FS5/007/23. Condition 3 of PA ref. F23A/0424 limits the use of the garden room to that being incidental to the enjoyment of the dwelling and Condition 4 restricts the use of the garden room for guest or sleeping accommodation.
- 8.4.29. Neither of these conditions nor indeed any other conditions attached to the above-mentioned permissions would trigger the restriction on exempted development status under Article 9(1)(a)(i) of the PDR 2001. Although purely incidental, I note that the referrer would only be able to implement the garden room declared exempt under PA ref. FS5/007/23, or the referred development, if similarly determined, not both.

### *Article 9(1)(a)(vi) – Interference with landscape character etc.*

- 8.4.30. The referral site is located in a highly sensitive coastal landscape and there is a Specific Objective to 'Preserve Views' to the east. I also note that Objective GINHO60 seeks to protect such views and prospects from "inappropriate development".
- 8.4.31. Whilst I accept that there will be a degree of visual impact from the referred development, I do not consider it so significant so as to interfere with the character of this highly sensitive coastal landscape, or the adjacent views of special amenity value and interest which are primarily seaward towards North Bull Island. In this regard, I note that the rear of the house cannot be viewed from the Strand Road and would be imperceptible from St. Fintan's Road having regard to its immediate domestic context.
- 8.4.32. Accordingly, the restriction under Article 9(1)(a)(vi) does not apply in this instance.

### *Article 9(1)(a)(viiC) – Would adversely impact on an NHA etc.*

- 8.4.33. This restriction relates specifically to designated natural heritage areas (NHA's). The referral site is located in North Dublin Bay and Howth Head pNHA's. Accordingly, this restriction does not apply to the subject referral and requires no further consideration.

## 9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the demolition of 2 no. existing previously-constructed single-storey extensions and the construction of a single-storey extension and single-storey garden room at St. Fintan's, Strand Road, Sutton, Dublin 13 is or is not development, or is or is not exempted development:

**AND WHEREAS** Gerard Curley and Sarah Callaghan requested a declaration on this question from Fingal County Council and the Council issued a declaration on the 1<sup>st</sup> day of December, 2022 stating that the works comprising of a garden room are development and are exempted development and the works comprising of the provision of the extension is development and is considered not to be exempted development by reason of its location in the side garden:

**AND WHEREAS** Gerard Curley and Sarah Callaghan referred this declaration for review to An Bord Pleanála on the 16<sup>th</sup> day of December, 2022:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;

- (d) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (e) Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (f) the provisions of the Fingal Development Plan 2023-2029 as they apply to the referral site,
- (g) the documentation on file, including submissions from the referrer and the Planning Authority;
- (h) the planning history of the referral site;
- (i) relevant precedent referrals and judgements; and
- (j) the pattern of development in the area:

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) The demolition of 2 no. existing previously-constructed single-storey extensions and the construction of a single-storey extension and single-storey garden room consists of the carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act 2000, as amended;
- (b) the demolition of 2 no. existing previously-constructed single-storey extensions to the side and rear of the house comes within the scope of Class 50(b) of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (c) the subsequent construction of a single-storey extension to the rear of the house comes within the scope of Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) the construction of a single-storey garden room to the rear of the house comes within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;

- (e) by reason of the limited scale of the works, it does not interfere with the character of the landscape whose preservation is an objective of the Fingal Development Plan 2023-2029, and accordingly the restrictions on exempted development status provided for in Article 9(1)(a)(vi) of the Planning and Development Regulations, 2001, do not apply in this instance, and
- (f) having regard to the limited nature and scale of the development, the characteristics of the area in which the development is to be located, and to the nature of the qualifying interests of the SAC's and SPA, that the proposed development would not be likely to have a significant effect on the North Dublin Bay SAC (site code 000206), North Bull Island SPA (site code 004006), Rockabill to Dalkey Island SAC (site code 003000) or any other European site and accordingly the restrictions on exempted development status provided for in Article 9(1)(a)(viiB) of the Planning and Development Regulations, 2001, do not apply in this instance:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the demolition of 2 no. existing previously-constructed single-storey extensions and the subsequent construction of a single-storey extension and single-storey garden room at St. Fintan's, Strand Road, Sutton, Dublin 13 is development and is exempted development.

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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Philip Maguire  
Planning Inspector  
19<sup>th</sup> January 2024