



An  
Bord  
Pleanála

## Inspector's Report ABP317545-23

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<b>Development</b>	Construction of 3-storey dwelling containing a two-storey duplex and a one-bedroom dwelling at second floor level.
<b>Location</b>	The harbour, Loughshinny
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F22A/0416
<b>Applicant(s)</b>	Harry Tuite
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	To refuse permission
<b>Type of Appeal</b>	First Party v Decision
<b>Appellant(s)</b>	Harry Tuite
<b>Observer(s)</b>	none
<b>Date of Site Inspection</b>	29 <sup>th</sup> . August 2023
<b>Inspector</b>	Brendan McGrath

## **1.0 Site Location and Description**

1.1. The site is near the harbour end of the long cul-de-sac that is the spine of Loughshinny village. The site is a narrow field, not in use, which interrupts a line of predominantly 1.5 and 2-storey detached dwellings. The dwellings have no common or defining style. The houses overlook Loughshinny beach and bay on a winding road, leading up from the attractive small harbour and beach.

## **2.0 Proposed Development**

- 2.1. The proposal is a 3-storey residential building overlooking the bay, harbour and beach. The building is flat roofed of contemporary design with a horizontal emphasis. There is a 3-bedroom unit on the ground and first floors and a one-bedroom unit on the first and second floors. There are two balconies at first floor level, one facing the bay, the other inland. The total floor area is 395m<sup>2</sup>. The building is in line with an existing two-storey house beside it that is set back 16 metres from the road. The roof parapet level of the proposal is a stated 33mm higher than the ridge of the roof of this neighbouring house. The applicant was requested to reduce the overall size of the development as part of a further information request. This led to a revised design, with a narrower building (0.92m narrower), a greater separation distance from the south-west site boundary (1m greater), a greater set-back of the second floor from the south-west site boundary (2.6m greater) and an associated reconfiguration of the floor plans. The overall floor area was reduced from 402 to 395m<sup>2</sup>, a 1.7% reduction.
- 2.2. The stated purpose of the proposal is a 1 bedroom apartment for the applicant and his wife and a 3-bedroom duplex for their son and his family. Both units are stated to be for permanent occupation enabling shared inter-generational living. The 1 bedroom unit is not a 'granny flat' though. It has its own separate entrance.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refusal for two reasons (paraphrased):-

1. Having regard to the limited reduction in scale and size it is considered that the development proposed by reason of its scale, design, bulk and massing would have a detrimental visual impact on this highly prominent coastal location and would fail to integrate in a satisfactory manner with the site and with established development in the immediate vicinity. The development as proposed would seriously injure the amenities of the area and would be contrary to the proper planning and development of Loughshinny.
2. Having regard to the location of the site within 100m of a coastline at risk of coastal erosion, the planning authority is not satisfied that the development as proposed may be carried out without undue negative impacts on the vulnerable coastline or exacerbate requirements for coastal defence works in the area over the lifetime of the development. The development as proposed would therefore contravene materially Objective GINH076 of the Fingal Development Plan

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning officers' reports are the basis for the council decision. In the original report the planner stated that the development is permitted in principle because the land is zoned residential and is an infill site. The planning officer also commented that the proposed design 'is modern but in keeping with a coastal location' and that the parapet level of the proposal had a similar height to the ridge height of the building to the south-west.

However, the planning officer concluded that the building was too wide for the site and would affect daylight and sunlight in the adjacent house to the south-west. A further information (FI) request was issued, requiring, among other matters, the following:-

- A Landscape Visual Impact Assessment,
- Revised design for a smaller building with a minimum reduction in the building's width of 3.5m,
- Reduction in size of the smaller residential unit so that it did not exceed 60m<sup>2</sup>, and

- A landscaping plan for the site.

The applicant was required to re-advertise the proposal because it was considered that the FI was significant.

The applicant partially complied with the requested changes, reducing the width of the building by 1metre, the size of the smaller residential unit reduced from 156 to 146m<sup>2</sup>, the larger unit 346 to 235m<sup>2</sup>. The separation distance between the proposal building and south-west boundary was increased from 1m to 3.6- 3.05m. But the planning officer concluded that the changes proposed did not go far enough and recommended refusal on the basis of his original reservations together with an additional reason referencing Objective GINHO76- Development and Risk of Coastal Erosion.

The planning officer is concerned about the size of the proposed subsidiary apartment (146m<sup>2</sup>) referencing the council's minimum space standard of 60m<sup>2</sup> for a granny flat as a relevant comparison.

The planner has concluded, in respect of Appropriate Assessment, that individually or in combination, the proposal will not have a significant effect on any European sites.

In respect of EIA screening, the planner has concluded that, having regard to nature, scale and location of the proposal, there is no real likelihood of significant effects on the environment.

### 3.2.2. Other Technical Reports

#### Parks and Green Infrastructure Division

The Division requested a Landscape Visual Impact Assessment because the site lies within a designated 'Highly Sensitive Landscape' in the development plan, and with particular reference to a protected view on Mine Road, and views from pier and harbour. The Division had no objections on receipt of the requested assessment.

### 3.2.3. Observations

There was one observation objecting to the proposal on grounds of being out of character with local area, negative impact on visual amenity, overlooking of adjacent house and site too small.

## 4.0 Planning History

An invalidated appeal (ABP 317538-23) in respect of this proposal was lodged on the 7<sup>th</sup> July 2023. There is no other recent history on the site.

Planning permission in 2012 for a 2-storey house on the adjacent site to the south-west (Reg. Ref F11A/0377)

## 5.0 Policy and Context

### 5.1. Development Plan

The development plan is the Fingal Development Plan 2023-2029. The site is zoned LC-Local Centre, to protect, provide for and/or improve local centre facilities.

Residential is a 'permitted in principle' use in this zone. The site also lies within a designated 'Highly Sensitive Landscape' (Green Infrastructure Map 1).

The proposal site is an infill site to which objective PM44 of the Plan applies. The objective 'encourages and promotes the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected'.

### 5.2. Natural Heritage Designations

The site is 120m from the North-West Irish Sea SPA (site code 004236), i.e. the sea at Loughshinny.

### 5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

In respect of the first reason for refusal relating to visual impact

- The scale of the proposal is not excessive,
- The visual impact of the proposal on the surrounding area would be slight and neutral,
- There are precedents of other proposals of similar scale and location granted permission in the village and at other sensitive coastal locations

In respect of the second reason for refusal relating to adverse physical impact on a vulnerable coastline,

- No undue impacts on vulnerable coastline, and
- No upgrading of existing coastal defence works required as result of proposal

### 6.2. Planning Authority Response

The council has reiterated its view that the proposal is not acceptable, given the sensitive nature of the receiving environment. It also points out that it did not have the benefit of the engineering report by Fehily Timoney about coastal erosion which forms part of the appeal documentation but was not submitted as part of the planning application.

### 6.3. Observations

None received

## 7.0 Assessment

Having examined all the application and appeal documentation on file, and having regard to national policy and guidance, I consider that the main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The main issues, therefore, are as follows:-

- Scale of proposal
- Visual impact on streetscape and wider coastal landscape, and
- Impact on coastal erosion.

### 7.1. Scale of proposal

The gross floor area of the proposed 3-storey building is 395m<sup>2</sup>. following a further information request. But the planning officer has retained the view that the scale issue has not been adequately addressed and the revised design would have a serious negative impact.

The appeal documentation includes a review of other decisions in Loughshinny and other scenic locations on the coast. I believe that the rebuttal is also supported by the Landscape and Visual Impact Assessment and Verified Photomontages submitted as further information.

The scale issue, in my opinion, primarily relates to preserving the residential amenity of the house immediately to the south-west. Following FI, the separation distance between the houses has been increased from 1m to 3.6m at ground level and up to 5.6m at first floor level. This compares with a Fingal Development Plan minimum standard separation distance of 2.3 m (Objective DMSO26 of the Plan). There are no windows in the side elevation of the proposed house, facing the existing house apart from windows with opaque glass lighting a stairway. For these reasons I do not believe that the proposal will have an overbearing impact on the neighbouring house.

### 7.2. Visual impact on streetscape and wider coastal landscape

The landscape of Loughshinny Bay is highly attractive and the bay is an outstanding part of the Highly Scenic Landscape designation in which it is located. The proposal site is in a prominent position overlooking the bay. The harbour and the cluster of buildings at the harbour contribute to that attractive character. The verified

photomontages views 2 (from pier looking north-west) and 3 (loughshinny Park looking west) in particular indicate that the visual impact of the proposal would not be significant. I agree with the submitted Assessment that the visual impact would be 'imperceptible/not significant and neutral in the long term.' The same outcome applies to views from inland (e.g.View 1 from Mine Road, north of the village).

However, the road leading down to the harbour is not especially attractive. Most of the buildings facing the road are detached dwellings of different styles, built since 1950. The overall impression is not helped by the fragmented character of the development. The proposal site is part of a significant gap in the frontage on the landward side of the road. Filling that gap with a well-designed building, would, in my opinion, make a positive contribution to the streetscape.

### **7.3. Impact on coastal erosion**

The site is on the landward side of the main street of the village. It is an infill site, part of the village centre is zoned for development and well above sea level. I therefore find the second reason for refusal anachronistic, in the sense that it is not clear to me why this particular field should be singled out in respect of a coastal erosion threat. The engineering report on the matter, which is part of the appeal, finds that the proposal does not pose a risk of causing an increase in erosion or deposition and that a rise in sea levels is highly unlikely to affect the proposal site given the elevation difference between the existing breakwater and proposed development.

### **7.4. Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

## **8.0 Recommendation**

I recommend that planning permission be granted for the reasons and considerations set out below and subject to the conditions listed.



## 9.0 Reasons and Considerations

9.1. Having regard to the zoning in the Fingal Development Plan 2023-2029 of the site as Local Centre, in which residential development is permitted in principle, the established pattern of development in the area, the fact that it is an infill site, its location within a Highly Sensitive Landscape designated in the Development Plan and the scale, form, height and design of the proposed development, it is considered that subject to compliance with the conditions listed, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of the adjoining property by reason of overdevelopment, visual obtrusiveness, overbearing impact or overlooking and would be in accordance with the proper planning and sustainable development of the area.

9.2. 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.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 2nd day of May 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>

3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Brendan McGrath  
Planning Inspector

27<sup>th</sup>. September 2023