



An
Bord
Pleanála

Inspector's Report

ABP-318069-23

Development	Plot adjacent to 44 Seafield Crescent, Two-bedroom detached house
Location	44 Seafield Crescent, Booterstown, Blackrock, Co. Dublin, A94 Y449
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D23A/0446
Applicant(s)	Mark Dunne
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Mark Dunne
Observer(s)	Angela Irish Rachel Dunne & Others
Date of Site Inspection	27 th May 2024
Inspector	Clare Clancy

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1.0 Site Location and Description

- 1.1. The appeal site is located at Seafield Crescent which is a mature residential area that forms part of a wider large scale housing estate. It is located immediately to the east of the Stillorgan Road and the UCD campus is located to the west of the Stillorgan dual carriage way.
- 1.2. The area is characterised by two-storey semi-detached dwellings and the predominant features of the dwellings are hipped roof profile, bay window two storey projection on front elevations with some dwellings containing porches. Boundary treatments include predominantly hedgerows or low fences acting as the dividing line between dwellings, with low block walls defining the roadside boundary. On-street parallel car parking is available at the front of houses with some facilitating car parking within the curtilage.
- 1.3. The appeal site comprises of a 'green space' infill site immediately adjacent to an adjoining small neighbourhood centre. There is an existing path between the appeal site and the neighbourhood centre and the appeal site is undefined in terms of boundaries.
- 1.4. The adjoining neighbourhood centre is a two-storey, terraced dual fronted block facing onto Seafield Park and Seafield Road which accommodates a mix of commercial and residential uses. There is an access lane to the rear connecting Seafield Road to Seafield Crescent which provides access from the rear of the premises, and where refuse bins are also stored. There is a designated Pay & Display car parking area located across the road including a bicycle stand, and a car parking area adjacent to the eastern side of the block.

2.0 Proposed Development

- 2.1. Planning permission was sought for a two-bedroom detached house with an upstairs study, vehicular access and ancillary services. The application was accompanied by a site location map, plans, elevations, sections drawings and drainage network drawings.
 - The subject site has a stated area of 0.0163 ha, and the gross floor area of the proposed dwelling will be 110 m².
 - Car parking is proposed within the rear curtilage of the dwelling.

- Wastewater is proposed to be disposed of to the public sewer within Seafield Crescent estate.
- Surface water is proposed to be disposed via raised rainwater planters and water butt in accordance with SuDS measures.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dún Laoghaire-Rathdown County Council refused permission by order dated 25th August 2023 for the following reasons:

1. Having regards to the 'NC' zoning objective at this site and to Policy Objective RET7 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the proposed development solely for a single, detached dwelling house on an existing undeveloped site, and associated boundary changes to the site, would represent an inappropriate single and residential only, non-retail / commercial use of the site in this NC zoning, and would also be visually prominent on this standalone NC zoning beside existing mixed use, and predominantly commercial buildings, would be injurious to the vibrancy of the neighborhood center and would be contrary to the zoning objective at this location 'to protect, provide for and / or improve mixed-use neighbourhood center facilities'. The proposed development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes and would, therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard in particular to the subject site prominent corner location, and the proposed house design and layout including mostly blank side elevations, roof design, and boundary treatments including high masonry walls, and position bounding public footpaths and laneway(s); the proposed development would not have a sufficient level of visual harmony with its surroundings, would have a visual obtrusive, overbearing and dominant impact on the public footpath and lane particularly to pedestrians on the adjoining footpath, would

overall be visually incongruous and seriously out of character with and have a serious negative effect on the surroundings, and the streetscape, and would not emphasise its 'sense of place' and setting receiving environment, would not result in positive edges and safety to the public realm, and would overall not address its prominent corner site, and position adjacent to the also prominent 'NC' zoned properties.

The proposal would also contravene Section 12.3.7.5 Corner/Side Garden Sites, Section 12.3.7.7 Infill and Section 12.3.1.1 Design Criteria, of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The development proposed would therefore seriously injure the amenities and depreciate the value of property in the vicinity and is contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report forms the basis of the assessment and recommendation and assesses the development in terms of principle of development, the design and layout of the dwelling including private open space, residential amenities, traffic safety. The following is noted:

- Residential development is 'permitted in principle' under the zoning objective for site and the report specifically notes Section 7.5.4.1 of Policy Objective RET7 which is considered to relate primarily to retail and other commercial uses on 'NC' zoned lands. The proposal materially contravenes the zoning objective as it does not provide a commercial / retail element to serve the community / neighbourhood.

3.2.2. Other Technical Reports

- Transportation Planning (18th July 2023) – Further information required in relation to sight visibility from the lane, noting also that the applicant shall design the access between no.44 and the lane to prevent vehicular access.
- Drainage Planning (03rd August 2023) – No overflow to be discharge to public sewer, updated surface water drainage plan to demonstrate that the outlets

from the rain water planters and water butt discharge to an infiltration system at ground level e.g. soakaway, to be provided.

3.3. Prescribed Bodies

- Irish Water (08th August 2023) – No objection raised subject to a number of standard conditions.

3.4. Third Party Observations

- 3.4.1. A total of 9 no. submission were received. 3 of the submissions made supported the proposed development while the remainder raised issues that are largely covered by the grounds of appeal.

4.0 Planning History

4.1.1. Appeal Site

P.A. Ref. D02A/0727 – Permission refused for two-storey detached office block containing 4 no. offices on the grounds that the proposal would materially contravene the residential zoning for the site, and failed to indicate proposals for off street parking or drainage (site adjacent to 1 Seafield Park & 44, 44A, 46 Seafield Crescent). Decision date 10 Sept 2002.

V/046/23 – Part V Exemption Certificate granted.

4.1.2. Adjoining Sites to West

P.A. Ref. D13A/0640 – Permission granted for change of use at ground floor from commercial office use to use as single residential apartment (No. 2 Seafield Park).

P.A. Ref. D21A/0809 – Permission granted for change of use from mixed use unit (beautician, office, residential flat) to single occupancy dental surgery, associated internal alterations and minor façade modifications (No. 3 Seafield Park).

P.A. Ref. D99A/0162 – Permission granted for a change of use of first floor residential to office use.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 – National Planning Framework (NPF) and National Development Plan 2021-2030 – seeks to focus growth in cities, towns and villages with the overall aim of achieving higher densities. Relevant National Strategic Outcomes and Policy Objectives include NSO 1 Compact Growth, NPO 3a, NPO 3c.

5.2. Ministerial Guidelines and Circulars

Regard is had to the following list of relevant Section 28 Ministerial Guidelines:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024).
- The Guidelines on Quality Housing for Sustainable Communities: Best Practice Guidelines (2007).
- The Design Manual for Urban Roads and Streets, 2019 (updated version).

5.3. Development Plan

The Dún Laoghaire-Rathdown County Development Plan 2022-2028 is the operative plan which has had regard to key national, regional and local policy documents.

- Chapter 13 deals specifically with Land Use and Zoning Objectives.

Zoning -Table 13.1.12

- The site is zoned NC with the objective 'to protect, provide for and/or improve mixed-use neighbourhood centre facilities'.
- Residential use is 'permitted in principle'.
- Chapter 7 relates to towns and villages acting as multifunctional centres. The following sections are relevant:
 - Section 7.5.4 Neighbourhood Centres.
 - Section 7.5.4.1 Policy Objective RET7 Neighbourhood Centres.

It is a Policy Objective of the council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.

- Section 7.6.3 Non Retail Uses.
- Section 7.6.3.1 Policy Objective RET11 Active Street Frontages Non-Retail Uses.

It is a Policy Objective of the council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres.

- Chapter 12 sets out the development management standards. The following are of relevance:
 - Section 12.3.1.1 Design Criteria.
 - Section 12.3.10.8 Vehicular Entrances.
 - Section 12.3.7.5 Corner / Side Garden Sites.
 - Section 12.3.7.7 Infill.
 - Section 12.4.8 Vehicular Entrances and Hardstanding Areas.
 - Section 12.6.1 Assessment of Development Proposals in Towns, District and Neighbourhood Centres – the following is noted:
 - The inclusion of some element of residential uses, particularly apartments, as an integral part of the centre in order to generate evening activity and security of the centre. Provision of residential must be in accordance with the overall zoning objective for the area.
 - Section 12.8.7.1 Separation Distances.
 - Section 12.8.7.2 Boundaries.

5.4. Natural Heritage Designations

5.4.1. The nearest European sites and Natural Heritage Areas in close proximity to the appeal site are the following:

- South Dublin Bay and River Tolka Estuary SPA Site Code 004024 – approx. 700 m to east of site.
- pNHA South Dublin Bay Site Code 000210 – approx. 700 m to east of site.
- pNHA Dalkey Coastal Zone and Killiney Hill Site Code 001206 – approx. 5.5 km to southeast of site.
- Rockabill to Dalkey SAC Site Code 003000 – approx. 8.5 km to southeast of site.
- North Bull Island SPA Site Code 004006 – approx. 5.5 km to northeast of site.
- North Dublin Bay SAC Site Code 000206 – approx. 5.5 k to northeast of site.
- pNHA North Dublin Bay Site Code 000206 – approx. 5.5 k to northeast of site.
- North-west Irish Sea SPA Site Code 004236 – approx. 5.8 km to northeast of subject site.
- Dalkey Islands SPA Site Code 004172 – approx. 8.2 km to southeast of site.

5.5. EIA Screening

5.5.1. Having regard to the nature, size and location of the proposed development, comprising the construction of 1 no. two-storey detached dwelling in a serviced urban area serviced by public infrastructure, and the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and having regard to the receiving environment and the existing pattern of development in the area, and the separation distances from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required (see Form 2 attached).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal against the Planning Authority's notification of decision to refuse permission, can be summarised under the following headings as follows:

Infill Development

- The site has been vacant since the establishment of the area and development of urban infill sites should be encouraged to provide housing in high demand areas e.g. Booterstown, Blackrock.
- The site maximises land use efficiency and reduces urban sprawl.
- The development of infill sites such as the appeal site is supported by National Policy Objectives (NPOs) 13, 32, 35.

Zoning

- The decision to refuse permission is based on the assumption that the proposed development is not supported by policy objectives RET7 and would be contrary to the NC zoning status of the site.
- Section 7.6.3 Non-Retail Uses of the CDP and Section 7.6.3.1 Policy Objective RET11 – Active Street Frontages Non-Retail Uses was ignored in the refusal.
- With respect to 'premises', it is submitted that the site is slightly different in that it is an empty infill corner site and the proposal is for a new build – more discretion should be given as the site has been vacant for a prolonged period with no other proposals forthcoming.
- The proposed development is not in direct contravention with Policy Objective RET7. The objective indicates that residential may be suitable for some Neighbourhood Centre locations without adversely impacting on existing levels of amenity.
- The proposed development meets other CDP objectives, Section 12.3.7.7 Infill, Section 4.3.1.2 Policy Objective PHP19 – Housing Stock Adaptation.

- Policy Objectives relating to NC zoning support the proposed development in principle and a number of examples of precedent are cited.

Design, Layout and Impact on Surrounding Amenities

- The proposed development will follow the established building on Seafield Park.
- Examples of houses built off the building line in the immediate area with planning reference numbers cited are provided.
- The material finishes will be similar to adjoining structures.
- With regard to being a corner site and changing boundaries, no impact arises to road safety, there is a footpath and grass verge along the gable side of the house onto Seafield Crescent.
- The existing footpath between the site and no. 1 Seafield Park to the west (proposed laneway) is owned by the appellant and will be gated to restrict access for resident use only addressing any potential privacy and security concerns.
- In regard to the proposed development being incongruous in nature and out of character with the area, an example is given where the Board overturned a decision to refuse permission D21A/0796 at 28 Glengara Park.
- Visual impact on the streetscape will occur but is not significant and the planning report provides no justification as to how the impact is deemed to be significant.

6.2. Planning Authority Response

The Planning Authority's Response to the grounds of the appeal refers the Board to the previous Planner's Report and that the grounds of the appeal do not raise any new matters.

6.3. Observations

- 6.3.1. Two third party observations were received from Angela Irish and Rachel Dunne and others, which can be summarised together under the following headings as follows:

Context and Character

- The proposed development fails to:
 - reinforce a sense of place and character since Seafield Crescent was established in the 1950s and is out of character with the adjoining area.
 - is not an appropriate response to the nature of site specific boundary conditions or respects the existing frontage and set-back of houses along Seafield Crescent.

Zoning / Development Plan Policy

- It does not comply with the zoning objective for the site and will undermine the role of the existing centre and will preclude future mixed-use development as provided for under the zoning objective of site.
- Contravenes Section 12.3.7.5 Corner / Side Garden Sites, Section 12.3.7.7 Infill and Section 12.3.1.1 Design Criteria.

Public Realm

- The removal of an existing key open green space which has been in situ since Seafield Crescent was established in the 1950s will detract from neighbouring public space and the streetscape, will diminish local identity and impact negatively on the visual amenities of the area.
- Will detract from the safety, security and enjoyability of the adjoining public areas.
- Conflicts with concept drawings in regard to the existing open green space being an integral part of Seafield Green as part of the Dún Laoghaire-Rathdown Plan 'Safe and Quiet Streets' initiative.

Building Line

- The proposed development will be forward from the existing house line – refers to adjoining site history where permission was refused relating to the same issue.
- Does not respect the existing frontage and set-back of houses along Seafield Crescent or the form of buildings and landscape around the sites' edges.

Boundaries

- The proposed 2 m high boundary wall and 2 m high gated vehicular entrance is out of character with neighbouring boundaries.

Sightlines / Road Safety

- Impact on sight lines at the junction of (i) Seafield Crescent and Seafield Park and (ii) Seafield Crescent and the laneway to the rear of Seafield Park.
- Impact to pedestrians and bicycle users due to insufficient sight lines as a result of the 2 m high boundary wall.
- Car parking is an issue in the area particularly in regard to waste collection, deliveries.
- The view to the existing lane from Seafield Park will be impeded. The lane was always to be maintained free of traffic / car parking.

Alleyway / Design Layout

- Will result in the creation of a closed alleyway to the rear of the proposed development adjoining no.'s 44 and 46 Seafield Crescent, detracting from access to existing housing and neighbouring residential amenity.
- The proposed alleyway will impact on safety and security as it will be narrow and bounded by 8 m high walls, will not be overlooked, will be shielded from natural light and potential antisocial behaviour.
- Fails to maximise the number of homes enjoying dual or single aspect, i.e. blocking sunlight to 44 and 46 Seafield Crescent.
- No storage space proposed for recyclables and waste development and impacts on the space available for no.'s 44 and 46 resulting in impeded circulation and permeability through the proposed narrow alleyway to the rear.

Privacy and Amenity

- The proposed development will not provide a decent standard of amenity for occupants.
- The proposed development will block sunlight at no.'s 44 and 46.
- The proposed development will overlook the front garden of no. 40 Seafield Crescent.

- The proposed boundary wall will give rise to a negative visual impact to no. 44 and 46 Seafield Crescent.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development – Zoning
- Overall Design, Layout & Visual Amenities
- Residential Amenities
- Access / Road Safety
- Open Space
- Appropriate Assessment
- Material Contravention

7.1. Principle of Development – Zoning

- 7.1.1. A key issue which is raised in the appeal submissions is the principle of development in terms of the zoning objective for the site, which the appellant contends supports the proposed development. The Planning Authority refused permission on the basis that the proposed development materially contravened the zoning objective for the site. It is submitted by the appellant that the proposed development is not in direct contravention with Section 7.5.4 Policy Objective RET7 which relates to neighbourhood centres.
- 7.1.2. The appeal site is zoned in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 (CDP) as 'NC', the objective for which is 'to protect, provide and / or improve mixed-use neighbourhood centre facilities'. A proposed residential land use is accepted in principle for this zoning, however subject to compliance with relevant

policies, standards and requirements set out in the CDP and national planning guidance.

- 7.1.3. Section 7.5.4 which refers to Neighbourhood Centres is relevant to sites' zoned 'NC' and notes that development in Neighbourhood Centres should ensure an appropriate mix of commercial uses, ensuring no overconcentration of a particular use class, and that uses should be appropriate in scale and nature to the Neighbourhood Centre designation. It further notes that the introduction of 'residential' may potentially be suitable for some neighbourhood centre locations, however I note that this specifically relates to larger Neighbourhood Centres that are capable of being promoted as local mixed-use nodes accommodating a range of uses beyond retailing or retail services. Leporadstown Valley is cited as one such example.
- 7.1.4. Reference is made by the appellant in relation to Section 7.6.3 and policy objective RET11 which relates to Active Street Frontages Non-Retail Uses. This policy relates to Neighbourhood Centres with the objective to control the provision of non-retail uses at ground floor level within the shopping parades of mixed-use Neighbourhood Centres.
- 7.1.5. The nature of the appeal site can be described as an end / corner site with undefined boundaries. While the principle of a residential use is acceptable for the overall land use zoning of the site, I consider that the proposed development which seeks to provide exclusively residential development in the form of a two storey detached dwelling, would be at variance with the main policy objective for the site RET7, which seeks to support the development of neighbourhood centres as they exist as focal points within communities by providing an appropriate mix, range and type of uses and services.
- 7.1.6. While I acknowledge the rationale put forward by the appellant in terms of the nature of the appeal site in the context of Sections 7.5.4 and 7.6.3, the proposed development would be a standalone residential development detached from the adjoining mixed use terrace, and would not be in accordance with the zoning and policy objectives, in particular 7.5.4.1 Policy Objective RET7 which requires an appropriate mix, range and type of uses to be provided. The provision of residential is required to be in accordance with the overall zoning objective for the area. On that basis I consider that the proposed development would compromise the overall zoning objective for the site and

consequently, I do not consider the principle of the proposed development to be acceptable in this case. However, I do not agree with the Planning Authority's view that it is a material contravention of the zoning objective for the site as cited in the first reason for refusal. This will be addressed later in the report in Section 7.8.

7.2. Overall Design, Layout & Visual Amenities

- 7.2.1. In its reason for refusal, the Planning Authority noted numerous issues relating to the design and layout of the proposed development that would result in the proposed development being visually incongruent, as it fails to adequately address the corner streetscape position. Concerns are also raised by observers as to the relationship of the proposed development with the amenities of the area and neighbouring properties and whether it is in keeping with the character of the area.
- 7.2.2. The substantive issues which relate to the design and layout of the proposed development is the site context and how the proposed development relates to the receiving built environment. Given the context, Section 12.3.7.5 Corner / Side Garden Sites and Section 12.3.7.7 Infill Sites of the CDP are relevant. Section 12.7.7.5 advises of a level of visual harmony including external finishes and colours, as regards the provision of infill housing, and building lines followed where appropriate. Section 12.7.7.5 requires infill development to respect the height and massing of existing residential units and retain the physical character of the area including among other things, boundary walls, gates, fencing etc.
- 7.2.3. I do not consider the height / scale of the development to be an issue as it assimilates with the existing developments in the area. The proposed dwelling will retain the ridge height of the adjoining terrace.
- 7.2.4. In terms of the proposed design of the dwelling, it is of general standard for a detached two storey dwelling. The material finishes are indicated to match that of the existing neighbouring structures of the neighbourhood centre which I note has a mix of red brick and plaster finishes at ground floor level and plaster at first floor level. I note also that the fenestration proposed is similar.
- 7.2.5. The main differences that the proposed design presents is that it is a detached dwelling with a 'Dutch' hipped roof profile with an 'A' pitched roof feature incorporated onto the front elevation at first floor level. Neither elements are features that currently exist on

the front elevations of the existing dwellings in the immediate area or on the adjoining terrace. The size or the width of the dwelling does not appear to lend itself to providing a hipped roof similar to that of adjoining structures. In that regard an 'A' pitched roof could better enhance the overall appearance. The additional roof feature on the front elevation could also be omitted. These elements may be modified by condition, should the Board be minded to a grant.

- 7.2.6. Concern arises in regard to the proposed siting of the dwelling relative to the established building line of Seafield Crescent to the south of the site. In noting that the proposed dwelling will align with the adjoining neighbourhood terrace fronting onto Seafield Park, it will infringe the established building line of the existing pattern set by the dwellings fronting onto Seafield Crescent to the south of the site, thereby giving rise to visual discordant. This is further compounded by the orientation of the proposed dwelling whereby the eastern facing elevation will be gable ended with its boundary enclosed by a 2 m high block wall. I would consider that these elements give rise to a significant level of visual discordance which would negatively impact on the visual amenities of the immediate area.
- 7.2.7. With regard to the elevational treatment facing Seafield Crescent to the east, I would note that the existing elevation of the neighbourhood centre is a gable elevation and that its design treatment is not particularly enhancing to the area. It contains 3 no windows at first floor level. The proposed eastern facing elevation of the dwelling will contain 2 no. windows at first floor level and a 2 m high boundary wall is proposed adjacent to the adjoining footpath. No material finishes are indicated for the boundary wall. I consider that the proposed elevational treatment in conjunction with the interruption to the established building line of Seafield Crescent as result of the siting and the orientation of the dwelling and the provision of a 2 m high block boundary wall will give rise to significant impacts on the visual amenities of the immediate area. Section 12.3.7.5 notes that side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided. Having regard to the existing site context, I would consider that the proposed development would impact negatively on the character of the area.
- 7.2.8. Section 12.3.7.7 indicates that infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates, gateways and landscaping. 2 m high block boundary walls are proposed on the western and eastern

boundaries of the site as well as to the rear. Concerns are raised that the provision of the boundary wall on the western side will result in the creation of an alleyway. While the proposed development will enclose the east facing side of the adjoining terrace to a degree, this would likely be the case irrespective of the type of use of any structure or design thereof, in the future development on this site. I note that the existing pathway to the rear of the terrace is already bounded by rear gables and higher walls.

7.3. Residential Amenities

It is raised in the observations that the proposed development will impact of the residential amenities of the adjoining properties no. 44 and no. 46 Seafield Crescent to the west of the appeal site in terms of loss of light and overshadowing, and will give rise to overlooking of the front garden of no. 40 Seafield Crescent which is located to the south of the appeal site.

7.3.1. Overlooking

The rear elevation of the proposed dwelling will contain a habitable room at first floor level and will face south in the direction of the front gardens of no.'s 40 and 42 Seafield Crescent. Having regard to SPPR1 – Separation Distances in the Sustainable Residential Development and Compact Settlements Guidelines (Jan. 2024), it sets out the requirements for separation distances (at least 16 metres) to be maintained in relation to opposing windows above ground floor level that serve habitable rooms at the rear or side of houses. I do not consider that overlooking is an issue in this case as the level of overlooking / surveillance would be similar to that of pedestrians viewing the front garden spaces of these properties from passing by on the public road. I am satisfied that the separation distance would be great than 16 m and therefore conclude that residential amenity is not unduly affected.

7.3.2. Overshadowing / Loss of Light – New Issue

I note from the planning history of the site and from my site inspection that the first floor and ground floor levels of the eastern facing elevation of the neighbourhood centre block contains a residential element. Concerns therefore arise in relation to the impact on residential amenities with regard to access to natural light and overshadowing. While I note that this issue was not addressed specifically by the

Planning Authority in its assessment or reason for refusal, it was raised in the third party observations to the planning application and to the appeal.

The separation distance between the proposed development and the adjoining development is noted to be approx. 2.8 m. Given the proximity of the proposed two storey dwelling which has a max. ridge height of 8.15 m and the proposed 2 m high boundary wall on the western boundary of the site, I consider that the proposed development would unduly obstruct daylight and would result in significant overshadowing of the residential amenities at both ground floor and first floor levels of the existing developments. The proximity to these windows would also have an overbearing impact on these adjoining residential units. In considering this, I have had regard to Section 12.3.1.1 of the CDP which relates to Design Criteria with specific reference to the levels of privacy and amenity and the relationship of buildings to one another including overlooking, sunlight / daylight, and also to Section 5.3.7 of the Sustainable Residential Development and Compact Settlement Guidelines (2024) which notes the importance of safeguarding against detrimental impacts on the amenity of adjacent properties. This is a new issue in the consideration of this appeal as the Planning Authority did not cite this as a reason for refusal.

7.4. Traffic Implications

- 7.4.1. In a number of submissions made by observers to the appeal, it is raised that sight lines are a cause for concern and that car parking is an issue in the area, with specific reference to waste collection and delivery traffic movements.
- 7.4.2. It is proposed to provide 1 no. car parking space within the curtilage of the site at the rear of the dwelling, the level of provision which is in accordance with the Sustainable Residential Development and Compact Settlements Guidelines (2024). There is already access serving the site at the rear from the existing laneway and it is proposed to use the existing laneway as a means of vehicular access to the site, and from the laneway onto Seafield Crescent. It is unlikely that the proposed development would give rise to any significant additional traffic impact given the nature of use for a dwelling.
- 7.4.3. I note that the Transportation Planning Section requested further information in regard to demonstrating sight visibility from the existing laneway whilst referencing the high

hedge from no. 42 Seafield Crescent, and the proposed piers and boundary wall from 'this development'. The report also noted that the applicant was required to design the access between no. 44 and the appeal site to prevent vehicular access.

- 7.4.4. In relation to sight distances, Section 4.4.4 of the Design Manual for Urban Roads and Streets, 2019 (DMURS) sets out that roads with a design speed of 30 km/h require a stopping sight distance of 23 m. I note that a 30 km/h speed limit applies to this built up area and I further note that the width of the existing laneway at the proposed entrance to the site is approx. 4.6 m. Seafield Crescent is served by existing footpaths and there is an existing footpath along the eastern boundary of the site. I am satisfied that sight distances from the laneway onto Seafield Crescent are sufficient and that the proposed development will not conflict with traffic or pedestrian movements.
- 7.4.5. I noted at time of site inspection that the area is well served by on street car parking. There is pay and display car parking available adjacent to the neighbourhood centre on Seafield Park and a further hard standing area adjoining the building to the east accommodating car parking in this area, therefore I am not in agreement that the proposed development would give rise to a car parking problem or indeed exacerbate car parking in the area. The laneway to the rear of the terrace provides access for the rear of the buildings and it is here where I noted that refuse bins are stored.
- 7.4.6. Accordingly, having regard to the foregoing, I am satisfied that the proposed car parking provision and associated vehicular access to / from the site onto Seafield Crescent is acceptable. However, in the event of the Board considering a grant, I would recommend the inclusion of a condition for the developer to finalise details relating to the access to the site including details of site boundaries and also, the particular details required by the Transportation Planning Section as noted in Section 3.2.2 of this report.

7.5. Open Space

- 7.5.1. A number of submissions on the appeal file state that the removal of the existing open green space which is the appeal site, is a key green open space and that its removal will impact negatively on the visual amenities of the area and will detract from the safety and security of the adjoining public areas.

- 7.5.2. Reference is also made to the subject site in the context of the public realm enhancement strategy 'Safe and Quiet Streets, Seafield Estate, Booterstown, Dublin' published by Dún Laoghaire-Rathdown County Council in August 2022, and that it will conflict with the concept drawings as set out in the strategy for this area.
- 7.5.3. I note the concerns raised, however the site is not zoned for open space which under such a zoning would in certain circumstances preclude various types of land use development, as set out in the CDP. However, the site is zoned for development under 'NC' and this zoning is open to various development proposals. I noted at time of site inspection that the green area had a number of vehicles parked on it. The plan referred to by the observers in Section 7.5.2 above is a resident-led strategy and while referenced in Section 5.6 of the CDP, I note that it is a non-statutory plan and that the CDP does not include a specific policy objective for this site as a result. Therefore there is no conflict arising with this strategy.

7.6. Other Matters

7.6.1. Precedent Cases

Within the appeal submission, reference is made to a number of various examples that relate to cases whereby precedent has been set with regard to the zoning objective 'NC', established building lines, and whereby a development was not considered to be 'incongruous' with the area. The case is further made that the zoning objective for the site supports the proposed development and a number of examples are also provided. While I acknowledge same, it is my consideration that the subject application / appeal should be considered on its own merits and on a site-specific basis, having regard to national and local policy and other relevant planning considerations.

7.7. Appropriate Assessment

- 7.7.1. I have considered the appeal in relation to the proposed development in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

The subject site is located approx. 700 m to the east of the nearest European Site(s) (South Dublin Bay and River Tolka Estuary SPA Site Code 004024). The proposed

development comprises of the construction of 1 no. detached dwelling. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect to any European Site. The reason for this conclusion is as follows:

- The nature of and scale of the proposed development.
- The sites' location in an established residential area on zoned lands that are serviced with public foul sewer and public water.
- Location-distance from the nearest European site(s) and the lack of connections.
- Screening assessment of the Planning Authority.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

7.8. Material Contravention

7.8.1. I note that the Planning Authority's reason for refusal no. 1 states that the proposed development would materially contravene the zoning objective for the site 'NC' and thus materially contravenes the Development Plan. Having regard to the general nature and text as stated for this zoning objective, I am satisfied that a material contravention does not arise in this case. Notwithstanding this conclusion, I have assessed the development against the four criteria under Section 37(2)(b) of the Planning and Development Act 2000 (as amended), which is the criteria that allows the Board to grant permission in the event of a material contravention:

i. The proposed development is of strategic or national importance

I consider that the proposed development is not of strategic or national importance.

ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned

As regards the proposed development, I consider that as the zoning objective permits in principle 'residential use' on sites zoned 'NC', that the zoning objective is not clear that such development is impermissible.

- iii. Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government

Having regard to these policy, objectives and guidelines documentation, and to the nature of the development, I consider that there are no relevant criteria that would permit a material contravention of the CDP.

- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permission granted, in the area since the making of the development plan

The Dún Laoghaire-Rathdown County Development Plan was adopted in 2022. The proposed development seeks to provide a detached two storey dwelling. The pattern of development in the area is generally characterised by residential development and the zoning objective for the subject site allows for development proposals for residential use to be considered as 'permitted in principle'.

- 7.8.2. Having regard to the foregoing and in particular (ii) above, I conclude that a material contravention does not arise in this case.

8.0 Recommendation

I recommend that permission for the proposed development should be refused.

9.0 Reasons and Considerations

1. Having regard to the 'NC' zoning of the site, the objective of which is to 'protect, provide for and / or improve mixed-use neighbourhood centre facilities', the sites' location relative to the existing adjoining mixed use neighbourhood centre, and notwithstanding that residential use is 'permitted in principle', the

proposed development which seeks to provide a detached two storey dwelling would be contrary to the provisions of Section 7.5.4.1 Policy Objective RET7 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the objective for which is to support the development of Neighbourhood Centres as the focal point of communities and neighbourhoods they serve by way of the provision of an appropriate mix, range and type of uses. The proposed development by itself would, therefore, be contrary to the zoning objective for the site, and to the proper planning and sustainable development of the area.

2. Having regard to the location of the proposed development which occupies a prominent corner site detached from the adjoining neighbourhood centre terrace, the siting of the proposed development relative to the established building line to the south and its relationship with Seafield Crescent road, the design of the east facing elevation comprising of a gable wall in conjunction with the proposal to provide a 2 metre high block boundary wall along the eastern boundary of the site adjacent to Seafield Crescent Road, and having regard to the provisions of Section 12.3.7.5 and Section 12.3.7.7 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the proposed development would be out of character in comparison to the prevailing built context, would appear visually incongruous on the streetscape and would have a significant negative impact on the visual amenities of the surrounding immediate area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development by reason of its height and close proximity to the adjoining neighbourhood centre development to the west which contains a residential element at first floor and ground floor levels, and the proposal to construct a 2 m high boundary wall along the western boundary of the subject site, it is considered that the proposed development would seriously injure the residential amenities of these adjoining properties by reason of loss of daylight and overshadowing, and would be contrary to the provisions of Section 12.3.1.1 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

[Note: Reason no. 3 is a new issue. Having regard to the other fundamental reasons recommended above, the Board may decide to omit this reason.]

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.

Clare Clancy
Planning Inspector

06th August 2024

Appendix 1 – Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318069-23		
Proposed Development Summary	Construct a two-storey detached dwelling, ancillary site works.		
Development Address	44 Seafield Crescent, Booterstown, Blackrock, Dublin.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓	The proposed development is for the construction of a two-storey detached dwelling, and all associated site development works, site area 0.0163 ha.	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	
Yes	✓	Class 10(b)(i) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following:	- Proposed development is for 1 dwelling unit. Subject site has stated area of 0.0163 ha and is
			Proceed to Q.4

		<ul style="list-style-type: none"> • Construction of 500 dwelling units. • Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. 	well below the 10 ha threshold for urban development in other parts of a built up area	
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4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318069-23	
Proposed Development Summary	Construct a two-storey detached dwelling, ancillary site works.	
Development Address	44 Seafield Crescent, Booterstown, Blackrock, Dublin.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>The appeal site is located in an established residential area within the settlement boundary of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development is not exceptional in the context of the existing receiving environment.</p> <p>The subject site retains the benefit of public services including, water, wastewater, footpaths. Irish Water raised no objections in relation to capacity to facilitate the proposed development.</p> <p>Other than site clearance works including removal of landscaping and topsoil, it is not anticipated that waste arising will be significant, and that localised construction impacts would be temporary.</p> <p>The proposed development would not give rise to waste, pollution, or nuisances that differ from that arising from other adjoining housing in the area.</p>	No
<ul style="list-style-type: none"> • Size of the Development <p>Is the size of the proposed development</p>	<p>Proposed development is for 1 dwelling unit.</p> <p>Subject site has stated area of 0.0163 ha.</p> <p>The site is located in an urban area. All other existing adjoining developments are established uses.</p>	No

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>		
<p>• Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no ecologically sensitive locations in the vicinity of the site.</p> <p>The site is not within a European site and the nearest European Sites to the appeal site is:</p> <ul style="list-style-type: none"> • South Dublin Bay and River Tolka Estuary SPA Site Code 004024 – approx. 700 m to east of site. <p>The site is serviced in terms of wastewater and storm water disposal. In the event that planning permission is granted, any surface water arising from the proposed development will be managed by condition that will include for standard best practices and methodologies for the control and management of surface water on site.</p> <p>Potential impacts that could arise from the proposed development to receiving receptors may include impacts to ground water arising from the mismanagement of surface water disposal on site.</p> <p>Given the absence of pathways to any sensitive ecological sites / receiving environment, it is considered that no issues arise.</p>	<p>No</p>
<p>Conclusion</p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is no significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>
✓	n/a	n/a

Inspector: _____

Date: _____