



An
Bord
Pleanála

Inspector's Report ABP-318660-23

Development

The extension and renovation of the existing dwelling including ancillary site works along with the replacement of an existing septic tank with a proprietary wastewater treatment system. A Natura Impact Statement (NIS) accompanies this application.

Location

Shell Cottage, Beach Lane, Portrane, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F23A/0570

Applicant(s)

Brian, Catriona, and Jane McCullagh

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Brian, Catriona, and Jane McCullagh

Observer(s)

None

Date of Site Inspection

6th March 2024

Inspector

Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.22 ha, is located at the end of Beach Lane, which is a narrow cul-de-sac serving chalets, mobile homes and dwellings to the eastern side of Burrow Road.
- 1.2. The appeal site comprises an existing dormer style dwelling, with associated outbuildings. The site is irregular in shape and relatively flat. The site is situated immediately behind Portrane beach with the sand dunes adjoining the site at a higher level.

2.0 Proposed Development

- 2.1. The proposed development comprises the extension and renovation of the existing detached dwelling on site. The existing dwelling on site will be retained with a floor area of 119 sq. m. with the proposed extensions to the dwelling comprising 180 sq. m., resulting in a proposed dwelling of 299 sq. m.
- 2.2. The existing single storey front elevation to the existing dwelling will be maintained with the addition of a flat roof porch extension. The proposed extension to the rear of the existing dwelling, will be contemporary in form with a two-storey glazed flat roof extension facing towards the sea.
- 2.3. Ancillary site works include the replacement of an existing septic tank with a proprietary wastewater treatment system.
- 2.4. The application includes a Natura Impact Assessment (NIS).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on the 14th November 2023 for the following reasons:

“1. The subject site is zoned ‘HA’ High Amenity under the Fingal Development Plan 2023-2029 the objective of which is to “protect and enhance high amenity areas”. Under the ‘HA’ zoning objective, the provision of a house or the use of an existing

structure as a dwelling is only permitted where the applicant can demonstrate compliance with the Rural Settlement Strategy, as set out in the Fingal Development Plan. Having regard to the documentation submitted with the application, the proposed development fails to demonstrate compliance with the criteria for eligible applicants for planning permission for new housing as set out in Table 3.4 and fails to comply with Objective SPQHO74 in relation to Houses in High Amenity Zoned Areas, given that the applicants have not demonstrated an economic or social need or an agricultural or rural housing need to live in this high amenity area. Furthermore, the proposed development fails to comply with the criteria for the replacement or conversion of existing coastal chalets and seaside huts by dwellings which can be resided in all year round given that no evidence has been submitted indicating that the existing structure has been in full-time residence for a period of seven years or more. The proposed development is therefore contrary to Objective DMSO47 of the Fingal Development Plan with regard to replacement of Seasonal Chalets and Seaside Huts. As such, the post development would be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of its design, scale, height and massing would result in a visual prominence and discordant development that would be out of character with the existing dwelling and the pattern of development in the locality and which would detract from the special character of the surrounding area and its 'HA' High Amenity zoning. The proposal would therefore, set an undesirable precedent for similar development in the area and would contravene materially Objective SPQHO88 of the Fingal Development Plan with regard to the development of coastal sites and would therefore, be contrary to the proper planning and sustainable development of this sensitive area.

3. Having regard to the proposed intensification of use on site, the proximity of the development to a coastline at risk from coastal erosion, the existing temporary coastal protection measures in place under provisions of Objective DMSO163 relating to Coastal Erosion as set out in the Fingal development Plan 2023 - 2029, the applicants have failed to demonstrate the potential impact of the proposed development on erosion or deposition and the predicted impacts of climate change on the coastline and any potential mitigation measures which could be employed to address coastal erosion in this location. On the basis of the foregoing, the proposal

would materially contravene Objective DMSO163 of the Fingal Development Plan and would if permitted, seriously injured the amenities of the area and would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

- 3.2.1. A planning Report dated 14th November 2023 has been provided.
- 3.2.2. The original planning report concluded that *“the applicant has not addressed the reasons for refusal under Reg. Ref. F22A/ 0522 including the impact of coastal erosion on the site as well as the planning status of the existing property. Furthermore, concerns remain pertinent with respect to the scale, design and dominant nature of the proposed development and its resultant impact on the highly sensitive coastal site. The Planning Authority therefore considers that the proposed development is not acceptable and fails to accord to numerous policies and objectives in the Fingal Development Plan 2023 - 2029. The development would therefore be contrary to the proper planning and sustainable development of the area, and as such permission was refused for three reasons as noted in Section 3.1.1 above.*
- 3.2.3. Other Technical Reports:
- Water Services: Report received requesting additional information in relation to surface water and refusal recommended in relation to coastal erosion.
 - Transportation Planning Section: Recommended conditions.
 - Parks and Landscape Division: Recommended conditions.
 - Biodiversity Officer: No report received.
 - Ecologist: No objection.

3.3. Prescribed Bodies

- 3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.
- Uisce Eireann: Recommended conditions.
 - An Taisce: No report received.

- Heritage Council: No report received.
- Inland Fisheries Ireland: No report received.
- Department of Housing, Local Government and Heritage: No report received.

3.4. Third Party Observations

None received.

4.0 Planning History

F22A/0522: Permission refused by Fingal County Council on 23rd November 2022 for the extension and renovation of the existing dwelling including site works and the replacement of an existing septic tank with a proprietary wastewater treatment system. A Habitats Directive Appropriate Assessment Screening and Natura Impact Statement (Stage 2) also submitted.

The reasons refusal stated:

“1. The subject site is zoned ‘HA’ High Amenity under the Fingal Development Plan 2017-2023 the objective of which is to “protect and enhance high amenity areas”. Under the ‘HA’ zoning objective, the provision of a house or the use of an existing structure as a dwelling is only permitted where the applicant can demonstrate compliance with the Rural Settlement Strategy, as set out in the Fingal Development Plan 2017-2023. Having regard to the documentation submitted with the application, the proposed development fails to demonstrate compliance with the criteria for eligible applicants for planning permission for new housing as set out in Table RF02 and Objective RF32, given that the applicants have not demonstrated an economic or social need or an agricultural or rural housing need to live in this high amenity area. Furthermore, the proposed development fails to comply with the criteria for the replacement or conversion of existing coastal chalets and seaside huts by dwellings which can be resided in all year round given that no evidence has been submitted indicating that the existing structure has been in full-time residence for a period of seven years or more. The proposed development is therefore contrary to Objective RF42 of the Fingal Development Plan 2017-2023. .

2. The proposed development by reason of its design, scale, height, and massing would result in a visually prominent and discordant development that would be out of character with the existing dwelling and the pattern of development in the locality and which would detract from the special character of the surrounding area which is zoned 'HA' High Amenity. The proposal would set an undesirable precedent for similar development in the area, would be contrary to Objective PM46 and Objective RF51 of the Fingal Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of this sensitive area.

3. Having regard to the proposed intensification of use on site, the proximity of the development to a coastline at risk from coastal erosion, the existing temporary coastal protection measures in place and the provisions of Objectives NH57 and DMS174, the applicants have failed to provide a coastal erosion statement in order to determine, inter alia, the potential impact of the proposed development on erosion or deposition and the predicted impacts of climate change on the coastline and any potential mitigation measures which could be employed to address coastal erosion in this location. On the basis of the foregoing, the proposal is contrary to Objectives NH57 and DMS174 of the Fingal County Development Plan, 2017-2023 and therefore be contrary to the proper planning and sustainable development of the area”.

F22B/0098: Permission refused by Fingal County Council on 7th June 2022 for extension and renovation of existing dwelling including siteworks and the replacement of an existing septic tank with a proprietary wastewater treatment system.

The reasons refusal stated:

1. The proposed development by reason of its design, scale, height, and massing would result in a visually prominent and discordant development that would be out of character with the existing dwelling and the pattern of development in the locality and would detract from the special character of the surrounding area which is zoned 'HA' High Amenity. The proposed apartment would set an undesirable precedent for similar developments in the area, would be contrary to objective PM46 of the Fingal County Development Plan

2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of its the siting close to the western site boundary, coupled with its height and depth would have an overbearing impact on would result in an unacceptable level of overlooking and consequent loss of privacy to the adjoining property. As such, the proposal will be contrary to the proper planning and sustainable development of the area.
3. No information has been submitted demonstrating how emergency and service vehicles can access the site having regard to the restricted width of beach lane. No information has been provided showing turning circles of sufficient radius to allow emergency and service vehicles to turn an exit from beach lane in a forward gear. Therefore, it would be contrary to the requirements of objective DMS 129 of the Fingal Development Plan 2017-2023 and would not be consistent with the proper planning and sustainable development of the area.
4. Having regard to the information submitted with the planning application and the absence of an appropriate assessment screening, it has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not have a significant effect on Rogerstown SAC and SPA, either alone or in combination with other projects. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Fingal Development Plan 2023 – 2029

- 5.1.1. The subject site is zoned 'HA' High Amenity, with a sated objective "*to protect and enhance high amenity areas*".

With a vision to "*Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense*

of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored”.

5.1.2. In Chapter 3 – Sustainable Placemaking and Quality Homes, the following are of relevance:

- Section 3.5.13.1 – Residential Extensions.
- Policy SPQHP41 – Residential Extensions.
- Objective SPQHO45 – Domestic Extensions.
- Fingal Rural Settlement Strategy.
- Objective PSQHO74 – Houses in HA Zoned Areas.
- Section 3.5.15.11 Replacement of Chalets and Seaside Huts.
- Policy SPQHP57 – Replacement of Chalets and Seaside Huts.
- Objective SPQHO100 – Replacement of Chalets and Seaside Huts.
- Objective SPQHO85 – Visual Impact Statement for Applications in GB or HA Zoned Areas.
- Objective SPQHO86 – High Amenity Zoned Land between the Sea and the Coast.
- Objective SPQHO88 – Development of Coastal Sites.

5.1.3. In Chapter 5 – Climate Change, the following are of relevance:

- Policy CAP31 – Coastal Monitoring.
- Policy CAP32 – Coastal Protection.

5.1.4. In Chapter 9 – Green Infrastructure and Natural Heritage, the following are of relevance:

- Objective GINHO56 – Visual Impact Assessments.
- Section 9.6.17 High Amenity Zoning.
- Policy GINHP28 – Protection of High Amenity Areas.
- Objective GINHO59 – Development and Sensitive Areas.
- Objective GINHO67 – Development and High Amenity Areas.

- Section 9.7 The Coast and Coastal Protection.
- Objective GINHO68 – Coastal Erosion.
- Objective GINHO69 – Coastal Defence Works.
- Objective GINHO70 – Identification of Coastal Protection Works.
- Objective GINHO71 – Erosion Risk Management.
- Objective GINHO72 – Coastal Erosion Policy.
- Section 9.7.1 New Development in Coastal Areas.
- Objective GINHO73 – New Development and the Coast.
- Objective GINHO76 – Development and Risk of Coastal Erosion.

5.1.5. In Chapter 14 – Development Management Standards, the following are of relevance:

- Section 14.3.1 Environmental Impact Assessment.
- Section 14.3.2 Screening for Appropriate Assessment.
- 14.6 Design Criteria for Residential Development in Fingal.
- 14.12.10 Replacement of Chalets and Seaside Huts.
- Objective DMSO47 – Seasonal Chalets and Seaside Huts.
- Section 14.18.4 New Development in Coastal Areas.
- Objective DMSO163 – Coastal Erosion.
- Objective DMSO164 – Coastal Flooding.
- Objective DMSO165 – Coastal Development.
- Section 14.20 Infrastructure and Utilities.
- Objective DMSO200 – EPA's Code of Practice for Domestic Wastewater Treatment Systems.
- Objective DMSO201 – Extensions to Dwellings Served by On-Site Wastewater Treatment Systems.
- 14.20.6 Flood Risk Management.

5.1.6. The following are also considered to be of particular relevance:

- Climate Action Plan 2023
- Strategic Flood Risk Maps – Sections of the site are located on lands identified as being within Flood Zone A & B.
- Green Infrastructure Maps – site categorisation of ‘Costal’, within a ‘Highly Sensitive Landscape’.
- The site is located on lands within the Parks Biodiversity Soft Coastline Buffer – which is within 100m of a coastline at risk from coastal erosion.
- The beach located to the north of the site is listed as an Annex 1 Habitat and is adjacent to the Rogerstown Estuary SPA, SAC and NHA.

5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

5.2.1. These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.

5.3. National Planning Framework

5.3.1. National Policy Objective 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

In respect of Coastal Environment and Planning for Climate Change the following National Policy Objectives (NPOs) are stated; ensure that Ireland's coastal resource is managed to sustain its physical character and environmental quality (NPO 41a) and, in line with the collective aims of national policy regarding climate adaptation, to address the effects of sea level changes and coastal flooding and erosion and to support the implementation of adaptation responses in vulnerable areas (NPO 41b).

5.4. Natural Heritage Designations

- 5.4.1. The subject site is not located within a designated European Site. However, the subject site is located some 25 metres from the Rogerstown Estuary SAC (Site Code: 000208) and the Rogerstown Estuary SPA (Site Code 004015) and Proposed Natural Heritage Area (000208) designations.

5.5. EIA Screening

- 5.5.1. I refer the Board to the completed Form 1 and Form 2 in Appendix 1. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal has been received; the grounds of appeal are summarised below.

- In response to reason for refusal 1 the appellant states:

- It was demonstrated in the planning application' supporting documentation that the existing dwelling is a permanent residence (evidence submitted) which was constructed pre-1963.
- This dwelling is deemed authorised as a dwelling house – the appellant refers to the 'Requisition on Title' submitted in this regard.
- The provision of the Development Plan in terms local needs justification do not arise and matters referring to local needs criteria should not apply in this instance.
- Referring to the structure as a coastal chalet or seaside hut is not applicable and providing evidence that the existing structure has been in full time residential use for a period of 7 years or more should not be required.
- The construction specification clarifies that the existing structure to be a dwelling house and comprises the build-up of an existing dwelling. A photographic survey of the dwelling house is submitted as part of the appeal.
- Aerial Map document is submitted as part of the appeal dating back to 1971 indicating a permanent structure on site.
- The information is sufficient to confirm that the existing structure on site is in fact a dwelling house and has been a place of permanent residency. The planning application (F23A/0570) should have been assessed as extensions to dwellings.
- In response to reason for refusal 2 the appellant states:
 - A Design Statement is included in the appeal, which highlights how the proposal responds to its neighbourhood contexts and demonstrates how the development is in line with planning legislation.
 - Initial designs submitted as part of planning application F22A/0098, which was refused permission have been amended by reducing the scale, form, and mass of the proposal.
 - The Design Statement provides exemplars of properties within the neighbouring context of the 'Burrows' having taken a similar design approach, appropriate to planning policy.

- The appellant refers to the Visual Impact Assessment Study, which addresses the design, scale, height and massing of the proposed extension to the existing dwelling in its context, including CGI's of the proposed dwelling from a range between 35m – 130m to show the impact of the proposed development from various locations surrounding the site.
- In response to reason for refusal 3 the appellant states:
 - The appellant refers to the Coastal Impact Statement (CSI) submitted in relation to the proposal.
 - The subject property was identified as not being under threat of coastal erosion or accretion within the study projected period to 2100 clearly provides this information and a major study such as that commissioned by Fingal County Council would have resources to carry out the climate predictions requested.
 - The study clearly shows that this property will not be considered at risk within the projection of the report to 2100.
 - In supporting the stability of dune and main dune wall, which backs onto an adjacent property, not the beach, gabions wall will be used as a retaining system, along with any sand removed for the drainage systems backed to the gabions, along with planting of Marram grass in accordance with the requirements of the RPS study.

Therefore, the appellant feels that sufficient demonstration was provided on the lack of impact that the proposed development would have on erosion or deposition and impacts of the climate change on the coastline and the proposed mitigation measures employed will address coastal erosion in this location.

6.2. Planning Authority Response

- 6.2.1. Report received stating that the Bord is referred to the report of the Planning Officer and the concerns raised in relation to the scheme's compatibility with policies and objectives contained within the County Development Plan. Further to the appeal documentation, concerns remain in relation to the applicant's compliance with the

Council's Rural Settlement Strategy pertaining to high amenity areas, compliance with criteria concerning replacement or conversion of costal chalets, issues in relation to design, height and scale of the development in a coastal area, as well as significant concerns arising in relation to the intensification of use on site having regard to its location in proximity to a coastline at serious risk of coastal erosion. As such, the Board is respectfully requested to uphold the decision of the Planning Authority.

- 6.2.2. In the event that the appeal is successful, the Planning Authority requests that conditions requiring financial contributions and/or Bonds in accordance with the Section 48 Development are included.

6.3. **Observations**

None received.

6.4. **Further Responses**

None received.

7.0 **Assessment**

- 7.1. Having examined the application details and all other documentation on file, including the first party appellant's submission (the subject matter of this appeal), site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues in determining this appeal are as follows:

- I. Principle of Development
- II. Scale, Design and Form
- III. Coastal Management – including Coastal Erosion & Coastal Flooding
- IV. Appropriate Assessment, and
- V. Other Matters.

7.2. **Principle of Development**

7.2.1. The applicant seeks permission to extend and renovate the existing dwelling on site. However, as noted above the Planning Authority was not satisfied that the information submitted adequately demonstrated the status of the existing property and therefore the proposal could not be considered and assessed as an extension to an existing dwelling and was assessed as an application for a new dwelling. Accordingly, the first reason for refusal states that having regard to the information submitted the proposed development fails to demonstrate compliance with the criteria for eligible applicants for planning permission for new housing as set out in Table 3.4 and fails to comply with Objective SPQHO74 in relation to the high amenity zoning of the site. The reason for refusal also considered that the proposal failed to comply with the criteria for replacement or conversion of existing coastal chalets and seaside huts by dwellings which can be resided in all year round given that no evidence has been submitted indicating that the structure has been in full time residential use for a period of 7 years or more and therefore was contrary to Objective DMSO47.

7.2.2. The appellant argues that it has been demonstrated in planning application supporting documentation that the existing structure was constructed pre-63, and have submitted aerial maps dating back to 1971, therefore indicating that this is a permanent residence. The planning statement submitted as part of the planning application and appeal includes affidavits from previous owners and neighbours stating that the dwelling was a private permanent residence from 1975 – 2017, when sold to previous owners, who resided in the dwelling between 2017 – 2021 prior to selling the property to the applicant in 2022. An account statement of local property tax payments has also been provided.

The appellant also notes the Construction Specification of the dwelling clarifies the existing structure to be a dwelling house.

7.2.3. In this regard, I consider that the presence of the structure on site has been demonstrated as part of the planning application and appeal. I also reference the Development Plan in relation to the replacement of seaside huts and chalets which notes that there are a number of areas in Fingal, such as Portrane, Donabate and Rush, where chalets and seaside huts have been constructed prior to and after the coming into effect of the Local Government (Planning and Development) Act 1963.

- 7.2.4. While the site is located in an area zoned for high amenity, I do not consider it necessary to assess the proposal under the requirements for a new house in high amenity area i.e. the requirements of Objective SPQHO74 or compliance with Table 3.4 the Rural Settlement Strategy, as there is an existing dwelling on site.

The main consideration, however, is the use of the dwelling on site as a permanent residence, given its location in a coastal area. The applicants' case that the dwelling has been in permanent residential use the submitted planning statement is noted, however, no additional or new verifiable information or documentation has been submitted as part of the appeal to make the case in respect to the permanent residential use of the dwelling. I would also note that at time of inspection the structure appeared to be unoccupied.

- 7.2.5. On the basis of the foregoing, I would also concur with the Planning Authority's view that the information submitted with the application does not adequately demonstrate that this unit is a permanent residential dwelling to warrant the proposal to be considered as an extension to an existing dwelling.

- 7.2.6. As such, I consider that the development be assessed as the replacement of chalets and seaside huts by dwellings which can be resided in all year round, subject to certain criteria (Policy SPQHO100). As referenced in Section 14.12.10 of the Development Plan (Objective DMSO47) applications for the replacement of seasonal chalets and seaside huts by dwellings which can be resided in all year round must comply as follows:

- Verifiable documentary evidence is demonstrated indicating the unit is occupied on a year-round basis and has been for a period of 7 years or more.
- The proposal satisfies planning criteria in relation to appropriate design and layout, drainage, access and integration with the character of the landscape.
- The site shall not be liable to the impacts of climate change, including coastal erosion and flooding.
- It can be demonstrated that no impacts arise, including accumulative impacts, in relation to European Sites.

- 7.2.7. Accordingly based on the information submitted as part of the planning application and appeal, I do not consider that the applicant meets the criteria set out under

Policy SPQHO100 and/or Objective DMSO47 of the Development Plan for the permanent residential use of the existing seasonal chalets and seaside huts by dwellings as no supporting information has been submitted in this regard. For this reason, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and a refusal is recommended.

The issue of scale, design of the proposed development, climate change and coastal erosion will be discussed further in Sections 7.3 and 7.4 below.

7.3. Scale, Design and Form

- 7.3.1. Reason for refusal no. 2 relates to the design, height and scale of the proposal and raised concerns that the development would result in a visually prominent and discordant development, would be out of character with the area and would be contrary to Policy Objective SPQHO88, which states that the development of any coastal site through the extension or replacement of existing buildings or development of any new buildings is of an appropriate size, scale and architectural quality and that it does not detract from the visual amenity of the area or impact negatively on the natural or built heritage.
- 7.3.2. The planning authority in their assessment consider that the proposal would appear obtrusive in the wider landscape and would appear stark in the context of the adjoining structures and dwellings, which would not assimilate successfully into the existing area.
- 7.3.3. The appellant refers to the Design Statement and the Visual Impact Assessment Study submitted with the planning application and appeal, stating that this highlights how the proposal responds to its neighbourhood contexts and locations surrounding the site. The appellant also notes that the design of the current proposal has addressed the concerns raised in the previous refusal under F22A/0098 (noted in Section 4 above), by reducing the scale, form, and mass of the proposal. The appellant also notes properties within the neighbouring context of the 'Burrows', stating that these have taken a similar design approach to that proposed in the instant application.
- 7.3.4. The proposal entails a significant extension to the dwelling with a proposed floor area of 180 sq. m. and will result in a single storey flat roof porch with a two-storey extension to the side, with a two-storey extension along the entire rear elevation of

the dwelling with an increased ridge height and a rear terrace. In terms of design the proposal reads as a contemporary addition to the dwelling with the use of large areas of glazing, stone, and a glass balustrade to the external terrace.

7.3.5. Noting the location of the site within an area of High Amenity, adjoining the coastline, and having regard to Policy Objective SPQHO88, I have concerns regarding the size and scale of the development as proposed relative to the existing dwelling on site, which has an existing floor area of 119 sq. m. While the modifications to the front of the existing dwelling appear acceptable, I consider that the proposed side and rear extensions by reason of scale and height cannot be considered an appropriate scale relative to the existing dwelling and therefore, would detract from the visual amenity of the existing dwelling and would appear overly dominant and obtrusive when viewed from the side and rear elevations.

7.3.6. While the proposed contemporary design of the works would be acceptable in principle, I have concerns regarding the scale of the extensions as proposed having cognisance to the high amenity and sensitive coastal location of the site. I do not consider that the proposed development has been designed in a sensitive manner, which would allow it to integrate sensitively into the area. Therefore, I consider that the extension as proposed would have a negative impact on the visual amenities of the area and as such I recommend that permission should be refused in this instance.

7.4. Coastal Management

7.4.1. The Fingal Development Plan plays an important role in restricting development in areas that are at risk of flooding or coastal erosion and protecting the natural landscape. Section 9.7.1 of the Development Plan outlines that as a general principle, development in coastal areas should be accommodated wherever possible in previously developed areas before consideration is given to development in greenfield site, however development will only be permitted where the Council is satisfied that the development will not add to the requirement of coastal defence works over the lifetime of the plan. As noted in Section 7.2 above, I submit that the use of the dwelling has not been confirmed and as such the conversion of the existing seasonal chalets and seaside huts by dwellings must be considered in respect to their impacts of climate change, including coastal erosion and flooding.

- 7.4.2. I further note that with respect to the coastline to the east of this site, that the planning authority has a stated objective to establish a coastal monitoring programme to provide information on coastal erosion on an ongoing basis (Objective GIM8) and that the preparation of a Framework Plan for Portrane, is proposed to be undertaken by the over the lifetime of the Development Plan.

Coastal Erosion

- 7.4.3. Reason for refusal no. 3 relates to coastal erosion and states that having regard to the intensification of use on site and the proximity of the proposed development and the coastline at risk of coastal erosion that the applicant has failed to demonstrate the potential impact of the proposed development on erosion or deposition and the predicted impacts on climate change on the coastline and any mitigation measures which could be employed to address coastal erosion.
- 7.4.4. The site is located to the west of the coast and is set behind an elevated dune bank, which is vulnerable to erosion. The site is in an area identified as being at risk of coastal erosion and is delineated on the local authority's mapdata as being within 100metres of the coastline.
- 7.4.5. It is the policy of the Planning Authority, as set out in the Fingal Development Plan 2023 - 2029, to prohibit new development outside of urban areas, within the areas indicated on Green Infrastructure Maps, which are within 100m of coastline at risk from coastal erosion unless it can be objectively established based on the best scientific information available at the time of the application, that the likelihood of erosion at a specific location is minimal (Objective DMSO163). Furthermore, it is the policy of the Planning Authority, to prohibit development along the coast, outside existing urban areas, where such development could not be adequately safeguarded over the lifetime of the development without the need to construct additional coastal defences (Objective GINHO75). At time of site inspection, the existing temporary anti-erosion measures were visible along the adjacent coastline.
- 7.4.6. The appellant refers to the submitted Coastal Impact Statement (CSI), and states that there is a limited flood risk at Portrane as a result of tidal flooding propagating up the Rogerstown Estuary and Portrane would not accurate any economic damage for a 0.5% flood event. It is noted that this is a 1:200 event. The appellant also notes the requirements of Table 12.3.1 which identifies that dune management with the use of

marram grass planting will stabilise the dunes and lead to long term accretion and a long term goal of no action required and it is, therefore, clear that there is no risk to the subject property as far as 2100. The landscape plan incorporates provision of a low-level gabion wall at the rear of dwelling which is to be augmented with marram grass to stabilise the dune/rear boundary of the site. The appellant notes that this is specifically in response to the recommendations of the Coastal Study by RPS which recommends such measures for this stretch of coastline (Zone 2 Middle Portrane Beach) to achieve the long-term goal of no action required is consistent with these recommendations. It is further suggested that this aspect of the project should also be encouraged by the planning process as it will be funded by the applicant.

- 7.4.7. Notwithstanding the proposed mitigation measures proposed by the applicant as part of the proposed development, I refer to the report received by the local authority Water Services Department, which notes that recent studies and observations along the beach in Portrane have shown that Coastal erosion is increasing in intensity and that without sea defences in place, the erosion rate could be as high as 2 metres per year, and having regard to the location of the site with the property boundary some 20 metres from the current coastline and the typical lifespan of a house (50years), it is considered that the proposal will not last the required length of time before the entire development is taken by the sea.
- 7.4.8. Following the Council's concerns in respect to coastal erosion along Portrane, a scheme has been developed to install Sand Groynes along the entire beach. I reference Objective GINH075 of the Development Plan, which states that it is an objective to prohibit development along the coast where such development could not be adequately safeguarded over the lifetime of the development without the need to construct additional coastal defences. The Council have stated that the installation of the aforementioned coastal measures is key to reducing the impact of Coastal Erosion in this area over the coming years and the future impacts of Coastal Erosion in this area are highly dependent on the installation of defence measures.
- 7.4.9. In this regard, and noting the scale of the development proposed, and the proximity of the subject site with the coastline, in the absence of adequate coastal erosion measures being put in place, I concur with the concerns expressed within the local authority report(s) and consider that the proposed development is premature,

pending these coastal erosion measures being put in place. As such, I recommend that permission be refused in this regard.

Coastal Flooding

7.4.10. The front section of the subject site is encompassed within an area identified as being at risk of Coastal Flooding (Flood Zone A and Flood Zone B). A Site Characteristic report accompanied the planning application, which also referenced flooding. I note the report received from the local authority Water Services Department which states, according to Fingal County Council's SFRA (2023 – 2029), the site appears inundated under the 1% & 0.1% AEP flood events, and taking cognisance of the nature of the development with regard to the subject site already having an existing dwelling and a proposed finished floor level of 3.9m OD, the site would appear to be just above the extreme weather event (mid-range future scenario) of 3.68mOD & 3.75mOD respectively (as per the OPW – floodinfo.ie), and as such, the level of flood risk is deemed acceptable.

7.4.11. In this regard, I consider that the proposed development would not give rise to a flood risk at this location and is acceptable.

7.5. Appropriate Assessment

7.5.1. Context:

The Board is advised that the applicant submitted a screening report for Appropriate Assessment entitled 'Habitats Directive Appropriate Assessment Screening and Natura Impact Statement (Stage 2)' (issue date 29/07/2022) for the proposed works part of the planning application to the planning authority.

7.5.2. Compliance with Article 6(3) of the Habitats Directive:

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in

combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Portrane, comprising the extension and renovation of the existing dwelling including site works, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.5.3. Appropriate Assessment – Screening Stage 1:

- 7.5.3.1. The application is accompanied by a Stage 1 Screening Report and a Stage 2 Natura Impact Statement, (NIS). The Stage 1 Screening assessment concluded that, based on the location of the site and that the proposed development site is not located within a Natura 2000 site but is 25 metres and greater from Rogerstown Estuary SPA and SAC, that the only potential impact upon these two sites is the possibility of potential run-off from the site and potential impacts from using machinery during the construction phase. Therefore, having ascertained during the AA Screening that it is not possible to exclude as a matter of scientific certainty that the proposed development will not have an effect on any Natura 2000 site individually or together with other plans and projects and the project should proceed to Stage 2 and a Natura Impact Statement should be prepared as a precautionary measure.
- 7.5.3.2. In accordance with obligations under the Habitats Directives, there is a requirement on the Board as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.
- 7.5.3.3. Having reviewed the documents, submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.5.4. Description of Plan or Project:

7.5.4.1. The proposed development comprises the retention and renovation of the existing dwelling on site (119 sq. m.) and the extension of same (180 sq.m.) including ancillary site works along with the replacement of an existing septic tank with a proprietary wastewater treatment system.

7.5.5. Natura 2000 Sites:

7.5.5.1. The site itself is not located within a designated European site but does directly adjoin the Rogerstown Estuary SPA and SAC, which is located some 25 metres from the site. The project will involve standard construction methods with some additional measures required to safeguard protected trees within the site. A Method Statement for the construction works has been submitted with the application which includes mitigation and precautionary measures eliminates any potential for indirect impacts through site drainage or siltation potentially impacting upon the water quality of Rogerstown Estuary SAC or SPA sites.

7.5.6. Assessment of Likely Effect:

7.5.6.1. Any potential indirect impacts on European sites from the development would be restricted to the discharge of surface water and foul water from the site. Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites to be within the zone of influence of the subject site;

European Site	Site Code	Qualifying Interests / Conservation Objectives	Distance
Rogerstown Estuary SPA	004015	Greylag Goose (Anser anser) [A043] Light-bellied Brent Goose (Branta bemicla hrota) [A046]	25 metres (and greater) to the east of the site.

		<p>Shelduck (<i>Tadoma tadoma</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [AO56]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	
Rogerstown Estuary SAC	000208	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia</i>)</p>	25 metres (and greater) to the east of the site.

		maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	
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- 7.5.7. Having examined the qualifying interests and conservation objectives for the Rogerstown Estuary SPA and Rogerstown Estuary SAC, I am satisfied that the proposed development, by virtue of its nature and scale, would not result in any potential for significant impacts on the integrity and conservation objectives of the site. Therefore, the Rogerstown Estuary SPA or SAC can be screened out of any further assessment.
- 7.5.8. During the construction phase of the project there is a possibility of discharge of runoff of surface waters containing silt reaching the adjoining Natura 2000 sites, however, I consider this risk to be unlikely. During the operational stage, foul water and surface water will be treated within the site in an onsite treatment plant and percolation area, and soakaway. If the systems are not managed correctly, there is a potential for an overflow to enter into the adjoining Rogerstown Estuary SPA or SAC.
- 7.5.9. The conservation objectives for the SPA and SAC are:
1. To maintain the Annex I habitats for which the SAC has been selected at favourable conservation status.
 2. To maintain the Annex II species for which the SAC has been selected at favourable conservation status.
 3. To establish the extent, species richness and biodiversity of the entire sites.

4. To establish effective liaison and co-operation with landowners, legal users and relevant authorities.

7.5.10. Screening Conclusion:

7.5.10.1. Based on the location of the site and that the proposed development is not located within a Natura 2000 site but is 25 metres and greater from the east of the Rogerstown Estuary SPA and the Rogerstown Estuary SAC, using the source-pathway-receptor model, there is the potential for potential run off from the site and potential impacts from using machinery etc. during construction phase. Having ascertained during the screening that it is not possible to exclude as a matter of scientific certainty that the proposed development will not have a effect on any Natura 2002 site, individually or in combination with other plans and projects. For this reason, I recommend that a Stage 2 Appropriate Assessment be carried out as a precautionary measure.

7.5.11. Stage 2 – Appropriate Assessment

7.5.12. Test of likely significant effect:

7.5.12.1. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

7.5.12.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Impact on habitat:

The site is located outside of any Annex 1 designated habitat and there will be no direct significant impacts on the Natura 2000 site or its Annex 1 habitats.

- Habitat degradation:

The proposed development will occur on non-priority habitats which occur greater than 25 metres from the Natura 2000 site boundary. The actual construction works are even further away to the west of the site. There will be no loss of any area of Natura 2000 sites as a consequence of the proposed development nor will it result in any impact on and Annex II species of flora and fauna.

- Direct or indirect damage to the physical quality of the environment in the Natura 2000 site:

There will be no direct or indirect damage to the physical quality of the environment. The issue of wastewater management will be addressed with the replacement and upgrade of the existing septic tank. A method statement has been prepared. There will be no significant impacts via indirect means by surface water discharges as there have been carefully planned and designed to create no impacts upon the adjoining SAC or SPA sites and their qualifying interests.

- Disturbance to species or habitats:

The construction works are physically separated from the Rogerstown Estuary SAC and SPA. The method statement includes mitigation and precautionary measures to eliminate any potential for indirect impacts through site drainage or siltation potentially impacting upon the water quality of the sites. The proposed development poses no potential new impact or significant impact upon the maintenance of species or habitats at the Natura 2000 site.

- Direct or indirect damage to the size, characteristics or population of the Natura 2000 site:

The proposed works will have no direct or indirect damage to the size, characteristics or population on the Natura 2000 site. It will also not compromise or negatively impact upon the water quality, which could in turn impact upon the fish population and plant species.

7.5.13. Mitigation Measures:

7.5.13.1. A Method Statement of proposed works has been prepared for the development and contains the following relevant mitigation measures to prevent any potential Impact upon Surface Waters/Water Quality and Rogerstown Estuary SAC or SPA sites:

- Prior to any demolition or construction works, a silt fence will be installed downgradient from the works and the coastal boundary on the eastern boundary of the site. The NIS report (page 25) states that “this is to prevent silting or contaminated run-off from leaving the site towards Dublin Bay”, however, this reference to ‘Dublin Bay’ appears to be an error in the NIS report. Notwithstanding, I consider the proposed mitigation measures with respect to the demolition and construction works relative to the subject site to be acceptable.
- Topsoil that is stripped back over the footprint of the new house is to be stockpiled in an area to the western side of the property which is even further away from the Rogerstown Estuary SAC and SPA sites. This will be covered with an impermeable membrane for later use on garden areas and will reduce saturation of soil and risk of silting. I consider this to be acceptable.
- A new wastewater treatment system is proposed to serve the development. I consider that the proposed wastewater treatment system will not have any negative ecological impacts.
- Clean roof water will be collected and discharged to ground via a Lawn Rainwater Sump as shown on the proposed site layout plan. As there is no direct hydraulic connectivity between the site and the Natura 2000 sites, I consider this to be acceptable.

7.5.14. Determination:

7.5.14.1. Accordingly, based on the foregoing, I am satisfied that the conservation objectives of the Rogerstown Estuary SAC and SPA sites will be maintained at a favourable conservation status. The NIS findings and conclusions remove all reasonable scientific doubt as to the effects that the works proposed may have on the Natura 2000 sites. Therefore, on the basis of objective scientific and factual information pertaining to the site and the proposed works, the proposed development either

individually or in combination with other plans/projects will not have any significant effects on European sites - either Rogerstown Estuary SAC and Rogerstown Estuary SPA sites.

7.6. Other Matters

7.6.1. Wastewater and Surface Water

The applicant is proposing to replace the existing wastewater treatment system on site to replace the septic tank with a new proprietary wastewater treatment system. A site characterisation report has been submitted as part of the planning application. I consider that the proposed wastewater treatment system has adequate capacity to serve the proposed residential unit, and therefore consider that the proposal is acceptable and would not be prejudicial to public health.

In relation to surface water, it is proposed to use the existing soakaway or lawn rainwater sump serving the existing dwelling to manage surface water runoff. However, having regard to the increased hardstanding area proposed, I do not consider that sufficient information has been submitted to take account of the existing soakaway and the additional surface water run off. I also note that further information was requested by the Water Services Department in their report.

In the event that the Board considers that the proposed development should be granted, a condition regarding the requirements of the wastewater treatment system and details with respect to the adequacy of the existing soakaway/lawn rainwater sump relative to the proposed development to be agreed prior to the commencement of development should be included.

7.6.2. Access and Parking

The submitted plans indicate proposals to widen the existing driveway to enable ease of access for emergency vehicles. The proposed works entail an extension to the tarmac road along Beach lane and parking and associated turning area to the front of the existing dwelling. I note that the transportation department have indicated no objection to the proposed arrangements subject to conditions in relation

sightlines, drainage, and site entrance splay. Noting the location of the subject site at the end of Beach Lane and the established use of the lane, I do not consider that the works as proposed would result in a traffic hazard and would be acceptable in principle.

In the event that the Board considers that the proposed development should be granted, a condition regarding sightlines, and details regarding the splay of the entrance to be agreed prior to the commencement of development should be included.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reason and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the coastal location of the site of the proposed development within an area designated 'HA', "High Amenity" in the Fingal Development Plan 2023-2029 and in the absence of sufficient evidence to demonstrate compliance with Objective SPQHO100 of the Plan in terms of the replacement/conversion of existing seasonal chalets and seaside huts by dwellings which can be resided in all the year round, it is considered that, based on the information submitted with the application and the appeal, that the applicant has not sufficiently demonstrated compliance with the requirements of Objective DMSO47 Fingal Development Plan. The proposed development would be contrary to Objective SPQHO100 and Objective DMSO47 of the Fingal Development Plan 2023 – 2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development by reason of its design, scale, height and massing would not be considered an appropriate size and scale of development relative to the existing dwelling for this coastal area, which is zoned 'HA', "High Amenity", and if permitted the development would represent an undesirable precedent for further development of this kind, which would be detrimental to the visual amenity of the coastal area, would be contrary to Objective SPQHO88 of the Fingal Development

Plan 2023 – 2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 9.3. The proposed development is situated in an area that is identified in the Fingal Development Plan 2023 - 2029 as being at risk of coastal erosion and it is considered based on current conditions and future coastal erosion predictions that coastal protection measures would be required to avoid damage by the sea at this location in the future. It is, therefore, considered that the proposed development does not accord with Objective DMSO163 and Objective GINHO75 set out in the Fingal County Development Plan 2023 – 2029 in relation to development in areas that are at risk of coastal erosion. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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



Emma Nevin
Planning Inspector

13th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318660-23		
Proposed Development Summary	The extension and renovation of the existing dwelling including ancillary site works along with the replacement of an existing septic tank with a proprietary wastewater treatment system.		
Development Address	Shell Cottage, Beach Lane, Portrane, Co. 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	X
		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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		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	X	Class 10 Infrastructure Projects (b) (i)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	318660-23	
Proposed Development Summary	The extension and renovation of the existing dwelling including ancillary site works along with the replacement of an existing septic tank with a proprietary wastewater treatment system.	
Development Address	Shell Cottage, Beach Lane, Portrane, Co. 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
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for the extension and renovation of the existing dwelling including ancillary site works in residential zoned land located in an high amenity area. However, the proposal is not considered exceptional in the context of the existing rural environment.</p> <p>The proposal will be connected to a new proprietary wastewater treatment system on site.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development 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>Site measuring 0.22 ha. The existing floor area is 119 sq.m. and the proposed extension is 180 sq. m. resulting in an overall floor area of 299 sq. m. The proposal is not considered exceptional in the context of the existing rural environment.</p> <p>There are no other developments under construction in the proximity of the site.</p>	No
<p>Location of the Development</p> <p>Is the proposed</p>	The appeal site is located c. 25km from the Rogerstown Estuary SAC and SPA, however, it is not considered that the development would have a	No

<p>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>significant impact on the ecological site.</p> <p>The other nearest European site is located above 1km from the site and therefore can be excluded in terms of the potential for effects on other European sites during construction and operational phases of the proposed development.</p>	
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector:  _____ Date: 13th May 2024

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)

