



An
Bord
Pleanála

Inspector's Report ABP-319907-24

Development	Demolition of shed and the construction of three dwellings, together with all associated site works.
Location	Lands to the rear of 38 & 38A Greenfield Road (formerly side and rear of A94 W2R6) and 44A North Avenue (A94 V9W3), Mount Merrion, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0008
Applicant(s)	Chalkhill Developments Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission subject to 21 conditions
Type of Appeal	Third Party
Appellant(s)	Mount Merrion Residents Association Xuepeng Duan & Yarui Zhao
Observer(s)	Alice & Des Smyth

John Flood & Anne Davitt

Donal Kavanagh

John & Moira Butler

Date of Site Inspection

24th September 2024

Inspector

Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The 0.1ha site is situated in a residential area in Mount Merrion and accessed from North Avenue at the west. The R138 Stillorgan Road is situated 400m to the east and the Church of Saint Threse is situated 200m to the south. The vehicular entrance opens to both the site and to an adjacent laneway to the southeast serving a private dwelling and an ESB substation which are not part of the site but which benefit from a right of way (ROW). The ROW does not form part of the site but is situated immediately to the south.
- 1.2. The site is an irregular shape comprised of side and rear gardens formerly associated with no. 38 Greenfield Road north of the site. It slopes gently from southwest down to northeast with a differential of 3-4m across the site. There is an area of hardstanding and a 72.8m² domestic garage/shed nearly obscured with vegetation located close to the vehicular access from North Avenue. The remainder comprises mature and ornamental gardens including some grassed/lawn areas.
- 1.3. The roadside boundary at the west comprises post and rail fencing which is also situated along a portion of the south. Additional boundaries comprise masonry walls and timber fencing. There is also a large, grassed area situated north of the site, addressing both North Avenue and Greenfield Road, which is finished in grass and appears to function as an area of open space. This area is connected to the site with no boundary present between it and the area where the shed is located. It is outside of the site however.

2.0 Proposed Development

- 2.1.1. Planning permission is sought for development which comprises the following:
 - Demolition of 72.8m² pitched roof domestic garage/shed,
 - Construction of 3 dwellings with a total floor area of 684 m² comprising:
 - 2no. 2.5 storey, 4-bed, hipped roof semi-detached dwellings (275.9m² and 280.7m²), 10.2m tall at the rear and 9.2m tall at the front, and
 - 1no. detached two storey 2-bed, dwelling (127m²) with a flat green roof.
- This dwelling will have a basement type underground level with the upper

storey forming the ground floor. It will have a total height of 7.54m but 4.2m above ground level, and

- All associated site development works including a new access road adjacent the current entrance, landscaping and boundary treatments.

2.1.2. The application includes the following supporting documentation:

- Site Specific Flood Risk Assessment,
- Preliminary Construction and Environmental Management Plan,
- Engineering Services Report,
- Planning Report,
- Daylight and Sunlight Analysis,
- Design Statement, and
- Landscape Report

3.0 Planning Authority Decision

3.1. Further Information

3.1.1. Further information (FI) was sought to provide:

- Detailed drawings illustrating access arrangements ensuring no impediment to the ROW
- Provision of a soakway to serve no. 44A in case of failure of the greenroof,
- Remove overflow discharges from soakways serving no. 44B and C to the public sewer,
- Provide permeable paving, and
- Provide a revised Preliminary Construction Management Plan to include mitigation measures against adverse health effects from construction impacts.

3.1.2. The response included new drawings of the access and landscaping arrangements, a Construction Noise and Vibration Management Plan, a revised Engineering

Services Report, revised Preliminary Construction Environmental and Waste Management Plan and revised drainage drawing.

- 3.1.3. The new drainage strategy was informed by a BRE Digest 365 Assessment to determine infiltration rates at the site. The revised proposal includes a soakway to serve no. 44A and revised soakways with no overflow discharge serving nos. 44B and C.

3.2. **Decision**

- 3.2.1. A notification of decision to GRANT planning permission was issued by Dún Laoghaire-Rathdown County Council (the Planning Authority) on 21st May 2024 subject to 21 conditions.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

- The Planners report recommendation to grant retention permission is consistent with the notification of decision which issued.
- The dwelling design, layout and orientation were all considered acceptable in terms of future occupants' residential amenity as well as impacts on adjoining properties.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.3.2. Other Technical Reports

- Drainage Planning: Initial report requesting further information regarding operation of the green roof, omission of soakpit overflows to the public drain and clarification of permeable paving provision. A second report assessing that FI response noted no objection subject to conditions.
- Transportation Planning: Initial report requesting further information to clarify the entrance proposals and provision of access to the ESB substation. A second report assessing that FI response noted no objection subject to conditions.
- Environmental Health Office: Initial report requesting further information regarding a more detailed Construction Environmental Management Plan. Following receipt of

the FI response, a second report was issued which states no objection subject to conditions.

- Environmental Enforcement: Report received which endorses the recommendation of the EHO and sets out no objection subject to conditions.
- Parks and Landscape Services: No objection subject to conditions.

3.4. Prescribed Bodies

No responses received.

3.5. Third Party Observations

- 3.5.1. 13. no third-party submissions were received from neighbouring third parties including the Mount Merion Residents Association and Mount Merrion Historical Society. Most of the submissions object to the proposal on the grounds set out below. One submission specifically does not object to the proposal but raises some concerns about the design as incorporated in the summary below.

- Design matters:
 - Scale, height, bulk, massing, proximity of proposal on elevated ground, design is piecemeal, overbearing, inappropriate and out of character for the site and would set a precedent.
 - Site was subdivided from no. 38 Greenfield Rd so should be categorised as an infill but does not comply with infill policy.
 - Design is out of character with the architectural heritage of the area. Design materially contravenes Policy HER21 to protect 19th and 20th C housing. Green roof is unsympathetic, and the proposal will interrupt the established symmetry.
 - Design fails to comply with pre-planning advice or overcome previous refusals on the site.
 - Design materially contravenes condition no. 3 of ref. D21B/0401 which relates to an adjoining property to the north, no. 38 Greenfield Road.

Condition no. 3 relates to the position of a soakway allegedly on the subject site but serving no. 38 Greenfield Road.

- Residential Amenity:
 - Overlooking
 - Privacy and visual impact.
 - Substandard separation distances.
 - Overshadowing. Shadow Impact Analysis is based on incorrect separation distances and does not assess 'Sitia' dwelling to southeast.
- Drawing inaccuracies and misleading statements in documentation received with the application. Separation distances stated on drawings are incorrect and are greater than reality. Soakway details and locations not illustrated. Sitia dwelling is not illustrated.
- Naming the sites 44a, 44b and 44c North Avenue will negatively impact house no. 44 by reason of confusion for wayfinding and property devaluation. House no. 44 was previously subdivided with a family flat called no. 44a.
- Removal of trees prior to lodgement of the application and lack of additional landscaping proposals.
- Traffic hazard and impact to right of way. Shared entrance would be more appropriate. Request to ensure no construction hoarding or permanent fencing is provided along the ROW. Request to retain turning space for the ROW users (Sitia dwelling and ESB substation).
- Concern of flooding from soakways due to higher ground levels on site than adjacent property.

4.0 Planning History

- 4.1.1. The following planning history relates to the appeal site however the two applications below refer to separate east and west halves which have now been amalgamated for the current proposal. Both proposals were refused for the same reason set out below.

- DLRCC ref. D22A/0430 /ABP ref. PL06D.314506 at west of site: Planning permission sought for construction of a new three storey house over basement with second floor front patio balcony, ancillary site works, new drainage systems and new vehicular entrance.
- DLRCC ref. D22A/0427 /ABP ref. PL06D.314507 at the east of the subject site: Planning permission sought for construction of a new three storey house over basement with second floor front patio balcony, ancillary site works and new drainage systems.
- Single reason for refusal given by An Bord Pleanála on both decisions:

Having regard to the pattern of development in the area, the residential zoning of the area under the Dun Laoghaire-Rathdown County Development Plan 2022-2028, and the standards for the development of infill development set out in section 12.3.7.7 (infill) and Policy Objective HER21 of the development plan, it is considered that, by reason of its height, scale, bulk, massing and design rationale, the proposed development would be excessively dominant and visually incongruous in this setting and would negatively impact on the visual amenity and character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- Reg. Ref. D21B/0401: At the time of making this application and subsequently implementing the permitted works, this property, which is situated immediately north of the site at no. 38 Greenfield Road, had a large area of private open space to the rear and side which was subsequently subdivided. The area to the rear now forms part of the subject appeal site. Permission was granted under ref. D21B/0401 for a single storey extension to the rear complete with ancillary elevational alterations and roof light to the side of the first-floor roof. Condition no. 3 is referred to in the appeals and is set out as follows:

“The surface water generated by the extension (roof and pavements) shall not be discharged to the sewer but shall be infiltrated locally to a soakway as indicated in the application. The soakaway shall not have an overflow. The soakaway shall be designed to BRE Digest 365, shall be at a min. 5m from foundations, 3m from adjacent property boundaries and shall have no impact

on neighbouring properties. If a soakaway is not a feasible solution, then, prior to development, the applicant shall prove that by submitting a report signed by a Chartered Engineer, showing an infiltration test (with results, photos, etc), and shall propose an alternative SuDS measure for agreement with the Planning Authority.

REASON: In the interests of public health."

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 (referred to hereafter as the Development Plan). The site is zoned A where the objective is to provide residential development and improve residential amenity while protecting the existing residential amenities.
- 5.1.2. Policy Objective PHP19: 'Existing Housing Stock – Adaptation' states the following: *It is a Policy Objective to:*
- Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.*
- Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*
- 5.1.3. Policy Objective PHP20: *Protection of Existing Residential Amenity. It is a Policy Objective to ensure the residential amenity of existing homes in the built up area is protected where they are adjacent to proposed higher density and greater height infill developments.*
- 5.1.4. Chapter 12 provides development management guidance and Section 12.3.7.7 therein refers to infill development. It requires new development to respect the height, massing and physical character of the area and states this specifically applies to early-mid 20th century suburban 'garden city' type planned settings.

- 5.1.5. Policy Objective HER21: *Nineteenth and Twentieth Century Buildings, Estates and Features: It is a Policy Objective to:*

....

- iii. *Ensure the design of developments on lands located immediately adjacent to such groupings of buildings addresses the visual impact on any established setting.*

- 5.1.6. Chapter 8 refers to green infrastructure and biodiversity. Table 8.1 therein identifies prospects to be preserved and includes views to Dublin city and bay from Deerpark, Mount Merrion. This is illustrated in a map and Section 8.4.5 and Policy Objective GIB6 seek to *prevent development, which would block or otherwise interfere with Views and/or Prospects.*

5.2. **Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities**

- 5.2.1. The guidelines provide high level guidance for new residential development and sets out Strategic Planning Policy Requirements (SPPRs) including SPPR 1 which refers to separation distances and requires a general minimum of 16m to be provided. SPPR 2 refers to provision of open space and requires a minimum of 50m² for 4-bed units. SPPR 3 refers to car parking while SPPR refers to bicycle parking.

5.1. **BRE Guidelines: Site Layout Planning for Daylight and Sunlight (2022)**

- 5.1.1. The guide gives advice on site layout planning to achieve good sun lighting and daylighting, both within buildings and in the open spaces between them. It contains guidance on site layout to provide good natural lighting within a new development; safeguarding of daylight and sunlight within existing buildings nearby; and the protection of daylighting of adjoining land for future development. The appendices contain methods to quantify access to sunlight and daylight within a layout.

5.2. **Natural Heritage Designations**

- 5.2.1. The site is situated 1.7km southwest of South Dublin Bay and River Tolka Estuary Special Protection Area as well as South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area.

5.3. EIA Screening

- 5.3.1. See completed Forms 1 and 2 on file. 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. Environmental Impact Assessment, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Two third party appeals were received which reflect topics raised in the third-party submissions to the application and can be summarised as follows:

- Inappropriate design out of scale and character with established pattern of development which is a garden city style of development.
- Contravention of the Development Plan including:
 - Backland versus infill development,
 - Section 12.3.7.7 regarding infill development
 - Policy Objectives HER 21 and PHP 20
 - Inadequate depths of rear gardens
 - Inadequate separation distances
- Impact to residential amenity due to overlooking, overshadowing and overbearing visual impact.
- Impact to drainage of No. 38 Greenfield Road. Condition no. 3 of ref. D21B/0401 for works to No. 38 required the provision of a soakway in the same location as the now proposed dwelling no. 44C.
- Impact to sensitive landscape including views from elevated land at Deerpark which is a public park closeby to the southwest and protected views over the site as per Map 2 of the Development Plan.
- Traffic hazard.

6.2. Applicant Response

The Applicants response is set out in two documents, responding separately to the two appeals. They make the following points:

- Refuting statements that the bulk, scale, massing and design rationale are the same as the refused development. The proposed design had regard to the previous refusals and is now very different with a mass reduced by 207m³ (16.5%). The roof profile is significantly different.
- Sufficient separation distances and private amenity space are achieved ensuring no overlooking will occur to opposing first floor windows or principle private amenity space. However, the response also highlights discretion surrounding separation distances afforded to the Planning Authority on a case-by-case basis. The new dwellings would not overlook or overshadow adjoining properties to such an extent as to negatively affect residential amenity.
- Proposed design took architectural references from surrounding Mount Merrion architecture, accords with Policy Objective HER 21 and will not visually impact upon the area.
- Proposed two-storey no. 44a (on the site of the current shed) is a high quality designed flat roof dwelling which took reference from the scale and proportion of the existing structure but is not designed to look like a shed. The green roof is a modern interpretation of the arts and crafts style of the surrounding dwellings.
- An updated daylight, sunlight and overshadowing assessment is received which addresses concerns raised in the appeals. It outlines why no assessment is required for daylight impacts to Sitia due to its situation south of the site. It concludes that overshadowing of adjoining properties would be within BRE guidelines limits.
- The proposed entrance has been deemed acceptable by the Local Authority and would not cause any confusion.
- The Applicant has full legal title of the site to carry out works. Copies of land registry maps are provided.

- Condition no. 3 of ref. D21A/0401 at adjoining no. 38 Greenfield Road is fully complied with. A soakway is provided in the rear open space of that dwelling and outside of the subject site.
- Clarity provided on drawing data obtained from a survey previously carried out on no. 38 Greenfield Road when the Applicant for this subject application also owned that property:
 - FFLs in proposed dwellings will be 0.84m higher than at no. 38 Greenfield Road.
 - Separation distances to first floor windows will be 22m.
 - Full topographical survey data for the site is provided on the drawing titled Site Layout-Ground Floor.

6.3. Planning Authority Response

- *It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.*

6.4. Observations

Four observations were made to the appeal and their contents are similar to the appeals with the following additional matters raised:

- Impact to protected view from Deerpark.
- Development would set a precedent for similar future subdivision, impacting the garden city design.
- Condition no. 5 requiring boundary treatments along the ROW will impact on accessibility of the ROW, particularly turning space for large vehicles such as oil and bin lorries.
- Alternative layout submitted.

6.5. Further Responses

6.5.1. Two additional observations received responding to the Applicant's response which set out the following:

- The Applicants response has a number of errors.
- Pastiche design out of character for the area and would introduce overlooking and overshadowing. A contemporary design would be more appropriate.
- The proposed development is larger, higher, bulkier and has a larger mass than the refused development and contravenes the Development Plan.
- It would set a precedent and affect the heritage of the area.
- No consultation with neighbouring residents.
- Ownership of the land parcels is not in dispute but considered odd that there are different registered owners.

6.5.2. Both Appellants submitted further responses to the Applicants response. Their main points are as follows:

- The design fails to respond to the previous refusals. Acknowledgement that the form has changed but considers the height, scale, bulk and massing is materially the same as the refused proposals and are overbearing and inappropriate for the site.
- The design is still out of character with the area and the Applicant has not put forward any similar reference points in the locality.
- Dormer windows on rear elevation in lieu of previously proposed rooflights will exacerbate overlooking.
- Contends that the Applicant over relies on numerical standards set out in policy and guidance instead of addressing privacy and amenity.
- Contends that the Sitia dwelling and ESB substation should be assessed for impacts to daylight and that those structures should be included in the shadow model to ensure cumulative impact is assessed.
- How the conclusion was drawn from the results of the shadow impact assessment is not clear.

- Non-compliance with condition no. 3 of ref. D21B/0401.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the principle of development is in accordance with the 'A' zoning on the site as set out in the Dún Laoghaire-Rathdown County Development Plan 2022-2028. Residential standards are met including requirements for internal spaces, storage, and minimum room sizes etc however, where design standards are raised in the appeals, they are assessed in detail below.
- 7.2. I also consider that the development comprises an infill type development and not strictly backland due to the location and context of the site with dwellings on three sides as well as a large area of open space. The access is also independent through adjoining property rather than in typical backland development cases where access is proposed through the existing access serving the main dwelling situated in front of the subject site.
- 7.3. I note many of the appeals and observations raise the issue that the proposed design does not address the previously refused development on the site. Each planning application is assessed on its own merits and while I have had regard to the planning history and the previous design proposed, this assessment is a 'de novo' assessment.
- 7.4. The main issues in this appeal therefore are as follows:
- Design
 - Visual impact to sensitive receptors,
 - Overlooking,
 - Overshadowing,
 - Traffic impact,
 - Contravention of the Development Plan, and
 - Impact to drainage of No. 38 Greenfield Road.

7.5. Design

- 7.5.1. There are two styles of dwellings proposed, one flat roof detached type referred to as no. 44A which is a two-storey structure, with one storey above ground. The latter house type comprises a pair of semi-detached, hipped roof, 2.5 storey dwellings referred to as nos. 44B and 44C.
- 7.5.2. The application includes a Design Report which highlights local design references from the garden city type suburb surrounding the site and I noted from a site inspection that the surrounding area comprises a range of dwelling types with recurring themes and external finishes, some aspects of which are proposed in the new dwellings as discussed later in more detail. The Design Report states that the overall concept was for a contemporary take on the arts and crafts style of the area.
- 7.5.3. No. 44A would be positioned on the same location as the current 72.8m² pitched roof shed. Its design loosely resembles the scale and proportion of the domestic shed but its style and character with a brick pediment, green flat roof and 21st century fenestration and entrance door are all more contemporary aspects which, in my opinion make the building legible and clearly designed for human habitation. The perception of a single storey building, albeit with an additional lower ground floor, at this prominent location visible from a number of aspects, is in my opinion an appropriate scale as its diminutive size gives precedence to the surrounding vegetation and open space.
- 7.5.4. With a footprint of 65m² it would be smaller than the current structure however it would have nearly double the floor area due to the lower subterranean floor. Excavation will be larger than the footprint of the structure as a retaining wall would be set back 4m from the rear elevation to provide a courtyard at the lower level allowing light to penetrate two bedrooms. External material and finishes would comprise whitewash cement render and a red brick which reflects materials well established throughout the area.
- 7.5.5. A flat green roof is proposed and while I note that pitched and hipped roofs are most commonly found in the area, there are flat roof dwellings situated at no. 42 North Avenue 90m north of the site and at 'Stansted' on Greenfield Road 50m northwest. Both are situated on prominent locations facing the roundabout at North Avenue, Callary Road and Greenfield Road which is immediately northwest of the site. No. 42

appears to be an original early 20th century dwelling while Stansted is a more contemporary design but reflecting the same arts and crafts style. Both those dwellings are two storeys with flat roofs and I consider the proposed no. 44A reflects the same design ethos and character.

- 7.5.6. In conclusion, I consider that the design, scale and character of proposed no. 44A is acceptable for the area. It will feed into a trio of similar style flat roof, early 20th century dwellings, finished with brick and render and all visible from the nearby roundabout.
- 7.5.7. The orientation of no. 44A positions the front door to the south with living/kitchen/dining space positioned at the side and rear facing west and north. Long vertical windows are proposed on both west and north elevations to provide passive surveillance to the adjoining public realm while an area of private open space will be positioned to the side and rear also providing adequate residential amenity.
- 7.5.8. Nos. 44B and 44C are positioned further east on the site, to the side of 44A and will be located between the existing no. 44 North Avenue to the south and no. 38 Greenfield Road to the north. They are positioned with the entrance facing south and with fenestration on the north and south elevations only. They comprise hipped roof dwellings with an exaggerated unsymmetrical breakfront gable on the front elevation which provides an overhang type porch to a round headed front door. There are also porthole windows and a pair of stepped small windows on the front façade. All of these features are vernacular to the area in The Rise at the east, Greenfield Road to the north and east as well as on Callary Road to the northwest. For example, no. 49 The Rise which is situated 65m northeast of the site is a hipped roof two storey dwelling with an unsymmetrical breakfront gable, porthole window and pair of stepped windows.
- 7.5.9. External materials and finishes will again comprise whitewash cement render and red brick together with red/brown roof tiles and white window frames which match the surrounding dwellings.
- 7.5.10. In conclusion, I consider the design concept is a contemporary interpretation of the vernacular dwelling style in the area and is an acceptable architectural response to the garden city type of surrounding development. The design does not detract from

the established character and it is my opinion that it complies with Policy Objective HER 21.

7.6. Visual Impact

- 7.6.1. The themes of scale, height, bulk and massing of nos. 44B and 44C arise in the appeals which consider the design to be inappropriate when compared to the established pattern of development in the area across those themes. This is also raised in the context of the visual impact of the design upon sensitive receptors such as adjoining dwellings and from the nearby Deerpark. The Appellants consider the design is overbearing.
- 7.6.2. The landform in the wider area slopes from the southwest down towards the bay at the northeast. Surveyed ground levels for the site, for no. 38 Greenfield Road to the north and for the adjacent right of way to the south are all provided on the drawings received with the application. Levels vary from 52.8mOD at the southwest adjacent the right of way down to 48.5mOD at the northeast of the curtilage of no. 38.
- 7.6.3. It is noted from the site layout drawing that the site excludes the existing right of way and therefore the existing tall evergreen trees on the southern side of that boundary will remain in place providing a good degree of screening from north avenue when approaching from the south. In my opinion, the main residential receptors with potential for visual impact are the occupants of no. 44 North Avenue to the south, Sitia to the southeast and nos. 36 and 38 Greenfield Road to the north and northeast.
- 7.6.4. The following is a list of finished floor levels, ridge levels and dwelling heights provided:
- Proposed nos. 44B and 44C
 - Finished floor level 50.42mOD
 - Ridge level of 60.49mOD.
 - Hipped roof with a total height of **10.22m** at rear of dwelling (**9.2m** from front),
 - No. 38 Greenfield Road to the north:
 - FFL 49.58mOD

- Ridge height 58.5mOD.
- Hipped roof structure with a total height of **9m**.
- No 44 North Avenue to the south:
 - No FFL available but I have estimated it from provided adjacent ground levels as 52mOD.
 - No ridge height available however the eaves were surveyed and annotated on the 'Proposed Roof Plan' drawing as 57.84mOD. Therefore, with an estimated 3.2m roof height, I consider the ridge level to be 61.04mOD.
 - Hipped roof building with a total height estimated of **8.7m** at front and **10.2m** at rear.

7.6.5. When looking at the above data as well as the Contiguous Elevations drawing, I consider the height of the proposed dwellings is acceptable and in keeping with the dwelling heights nearby. I do not consider it to be excessive, overbearing or out of character with the surrounding development.

7.6.6. I note that dwelling widths are not provided for existing dwellings on the drawings received. The principle of semi-detached dwellings however is already established in the area around North Avenue and Greenfield Road and many of those are 3-bay dwellings similar to the proposal. The width of the front elevation is similar in scale to existing dwellings and therefore I consider it to be acceptable.

7.6.7. On the issue of massing and bulk, I note the Appellants argument that the proposed dwellings are taller and have a larger floorspace than the refused proposals. I also note the Applicants response highlighting the reduced massing of the design compared to the previous proposal. I do not accept that a taller building or larger floor area automatically contributes to a larger mass, as design can significantly alter the visual impact and perception of bulkiness.

7.6.8. In this case and when looking at the front and side elevations of no. 44B and C, I consider that the hipped roof reduces the massing of the structure. I also consider that the breakfront gable to the front in particular also breaks down the bulkiness and successfully introduces visual interest via an architectural element vernacular to the area.

- 7.6.9. On the rear elevation however, I consider that the dormer windows add unnecessary additional bulk. The attic level is proposed to be a home office in both dwellings and would be served by a porthole window on the front gable and a box dormer window on the rear. The dormer is proposed as part of a central vertical breakfront feature which stands slightly proud of the rear elevation and would be finished with render with a horizontal band of decorative tiles at intervals to represent the different floor and roof levels etc. The Architects consider this again reflects the arts and crafts style of architecture in the area while third parties refer to it as a tower feature which is incongruous to the area.
- 7.6.10. I consider that omission of the dormer window and associated three storey breakfront feature on the rear elevation would lessen the visual impact of the structure to nos. 36 and 38 Greenfield Road by reducing the bulk and massing of the roof and also eliminating an unnecessary architectural feature which does not positively contribute to the design. Roof lights may be added by way of condition instead which would provide appropriate levels of internal light and also add some minor visual interest, breaking up the monotony of the rear roof elevation.
- 7.6.11. With regard to any possible visual impact from the nearby Deerpark public amenity area which has protected views from the park, over the site, and onwards north and northeast towards Dublin city and bay, I note Section 8.4.5 and Policy Objective 8.4.5 which seeks to *prevent development, which would block or otherwise interfere with Views and/or Prospects*. I do not believe however that the proposed dwellings would introduce any perceptible change to the landscape. There are a lot of trees on the park as well as adjacent to the site which would provide a good degree of screening. The site is situated at a lower ground level than the park and there are taller buildings in the vicinity, situated on higher ground than the site but lower than the park, which would dominate the views in question such as the new apartment complex and existing commercial/retail building on Wilson Road as well as the church on North Avenue. Any views of the site from Deerpark are set against a backdrop of rooftops and urban development which would absorb the proposed works and I therefore do not consider that the provision of an additional 4.2m tall dwelling and two 10.2m tall dwellings would negatively impact those views. In my opinion the development complies with the requirements of Policy Objective GIB6.

- 7.6.12. Lastly, the appeals raise a concern that the proposal will negatively impact the visual amenity of no. 38 Greenfield Road due to the proximity of the proposed structures to that dwelling together with the higher ground level of the site. I consider the 22m separation between the structures above ground level is acceptable. I believe that any reduction in amenity value of the single storey projection to the rear of no. 38, which is situated 10m from the rear elevation of no. 44C, would be negligible due to the single storey nature of that room together with the proposed pleached 3m high tree planting along that shared boundary.
- 7.6.13. In conclusion I consider, subject to removing the dormer windows, that the massing, scale, height, bulk, design concept, materials and finishes of the proposed development are all acceptable and are consistent with the prevailing design type in the area. I also consider that the design complies with the provisions of Policy Objectives PHP 19, PHP 20 and HER 21 and also responds to and complies with Section 12.3.7.7 of the Development Plan regarding infill development in that it respects the height and massing of existing residential units and retains the physical character of the area. It is my opinion that the design response provides a graduated scale of structures responding to the falling ground levels as well as adjoining development and I do not consider there will be any negative impact to the architecture of the area or any visual impact to sensitive receptors as a result of the proposed development.

7.7. Overlooking

- 7.7.1. No overlooking would be afforded from no. 44A to adjoining properties due to the positioning of just one storey above ground level, the separation distances between no. 44A and the adjoining no. 44B, the proposed boundaries and the general orientation of no. 44A which mainly faces north over an area of public open space. In the cases of nos. 44B and 44C, overlooking opportunities are restricted to the front and rear elevations only where fenestration is proposed above ground level.
- 7.7.2. No. 44 North Avenue is situated to the south of the proposed semi-detached dwellings and orientated 90 degrees facing west. There are no windows on the north (side) elevation of no. 44 closest to the site. Access was not gained to the rear of no. 44 North Avenue however I note that any potential north facing windows at the rear would be further stepped back and therefore less likely to suffer overlooking. Some

overlooking may be afforded to the front curtilage of no. 44 from no. 44B however I do not consider this would impact the residential amenity of no. 44 due to the semi-public nature of the existing front garden. Very limited overlooking would be afforded to the rear of no. 44 from no. 44C only as the front façade of no. 44C is roughly centred on the side elevation of no. 44, effectively blocking all views except from the eastern most windows.

7.7.3. The dwelling referred to as Sitia is a single storey structure situated to the rear of no. 44 north Avenue as demonstrated on the Site Layout Plan drawing. Sitia is laid out with two pitched roof wings, one running north-south and situated at the south with the other at the north running northwest-southeast and connected with a linking corridor. Any view of Sitia from the proposed development would be limited to the western roof plane of the southern wing which has no fenestration on that roof plane. These views would also be restricted by the orientation of that wing to the front façade of the proposed dwellings which are set at 90 degrees to each other. Further, I do not believe any views would be achievable to the northern wing as it is situated within a very acute angle of less than 25 degrees from the front façade of the proposed dwellings. I therefore consider that no overlooking of Sitia is likely due to the layout and orientation of both existing and proposed dwellings.

7.7.4. No. 36 Greenfield Road is a two-storey dwelling situated 23m northeast of the proposed dwellings and at a slightly lower ground level. The eaves of no. 36 are stated as 53.95mOD while the ground level at the northeast of the site adjoining the rear private space of no. 36 is 49.5mOD. In this regard there is a potential for more overlooking to be afforded from the rear elevation windows than if the ground was more level throughout both plots. The proposed 22m separation however exceeds the minimum recommended standard of 16m required by SPPR 1 in the Sustainable Compact Settlement Guidelines and therefore I consider that any additional overlooking afforded by changes in ground levels is negated by the larger separation distance. As set out previously in this report, I recommend the omission of the attic level dormer window and its replacement with rooflights. This would also reduce the potential for overlooking, particularly if the rooflights are positioned at a high level. In conclusion, I do not believe any overlooking from the proposed dwellings to no. 36 would significantly impact the residential amenity of that dwelling or its open space.

7.7.5. No. 38 Greenfield Road is a two-storey dwelling situated immediately to the rear of nos. 44B and C and its rear elevation is also parallel to the proposed dwellings. A 22m separation is achieved between the first-floor windows which again exceeds the minimum 16m requirement. While ground levels at the site are slightly higher than at no. 38, I consider that any overlooking would be to an acceptable degree as experienced in most suburban areas and not such as to have a significant negative impact on residential amenity.

7.7.6. In conclusion, I consider that the proposed development would not result in any inappropriate or undue levels of overlooking to adjoining properties. I consider the proposal complies with Policy Objective PHP 20 regarding upholding existing residential amenity.

7.8. Overshadowing

7.8.1. The Appellants are concerned about overshadowing to adjoining property and in particular that the Sitia dwelling was omitted entirely from the assessment. The Applicant submitted a Sunlight, Daylight and Overshadowing Assessment with the application which concluded that any overshadowing would be within the thresholds recommended in the BRE Guidelines. The Applicant also responded to the third party appeals on this matter and noted that as Sitia is situated to the southeast of the site, an assessment is not required.

7.8.2. I agree with the conclusions drawn in both the report and response. I consider it is clearly demonstrated that there will be a negligible impact to residential amenity on adjoining properties in the context of sunlight, daylight and overshadowing, particularly due to the height and scale of the proposed dwellings together with the separation distances to, and orientation of, existing dwellings. I also agree that there is no requirement to assess the impact to Sitia as its location and orientation southeast of the site means overshadowing from the proposed development would be extremely limited and negligible as per Section 3.2.2 of the BRE Guidelines.

7.9. Traffic Impact

7.9.1. The appeals are concerned about the impact of the new entrance to North Avenue, that it would cause confusion for all road users and particularly conflict with pedestrians and cyclists. I consider the entrance is a standard suburban layout in an

area with good sightlines and complying with the Design Manual for Urban Roads and Streets.

- 7.9.2. In my opinion there is little cause for confusion or any traffic hazard particularly as a maximum height of 1.1m for any boundaries to the entrance is provided for in conditions in order to achieve visibility between drivers and VRUs. I also note the Local Authority Transport Department report reached the same conclusion. I recommend a condition is included to agree a naming and numbering proposal to provide a clear and recognisable identity to the new dwellings to limit confusion.
- 7.9.3. The Occupiers of Sitia raise concerns about provision of a boundary between the ROW laneway and the proposed new site access. They maintain that the area of hardstanding currently situated adjacent the existing entrance to the ROW is used as a turning area for vehicles visiting that dwelling including fuel deliveries as well as access to the ESB substation. The further information response drawings illustrate the access and proposed landscaping, and they do not illustrate any new boundary to subdivide the existing and proposed new entrance. The existing boundary further east along the laneway will be maintained entirely and unaltered. In this regard a turning space is available, however the right to enter that property and use the area for that purpose is a civil matter outside the remit of this planning appeal.

7.10. Contravention of the Development Plan

- 7.10.1. The appeals consider that the proposal contravenes the following provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028:
- References to backland development,
 - Policy Objectives HER 21, PHP 19 and PHP 20,
 - Section 12.3.7.7 regarding infill development, and
 - Section 12.8.7.1 regarding depths of rear gardens,
- 7.10.2. The assessment above has already dealt with the first three points above, and I consider the development complies Development Plan.
- 7.10.3. In relation to the depths of rear gardens, the appeals refer to Section 12.8.7.1 of the Development Plan which outlines how 11m garden depths often occur due to a 22m separation between first floor windows. It goes on to state however that standards

may be relaxed and dealt with on a case-by-case basis while maintaining residential amenity. In this case, I have set out already how existing residential amenity will be maintained and not impacted significantly by the proposed development. A generous provision of private open space is proposed for each dwelling, meeting the standards set out in the Compact Settlement Guidelines, and I therefore consider the proposed design does not contravene Section 12.8.7.1.

7.11. Impact to drainage

- 7.11.1. The Applicant's response to the appeal outlines how they previously owned no. 38 Greenfield Road, how they implemented the works permitted under reg. ref. D21B/0401 and how the site was subdivided prior to completion of the permitted works. It provides an illustration of the location of the soakway in question, situated within the private open space of no. 38 Greenfield Road but outside of the subject site. In this regard I am satisfied that there will be no impact to drainage to no. 38 Greenfield Road as a result of the proposed development.
- 7.11.2. The third-party submissions to the planning application raised concerns around flooding due to the elevation of the site above some adjoining property however the site is not situated within a flood zone according to the publicly available OPW floodinfo maps and I do not believe that the scale of works proposed is likely to generate significant quantities of surface water. Having regard to the drainage layout submitted which includes soakways, a green roof and permeable paving, I consider it unlikely that any adjacent property would be at risk of flooding as a result of the proposed development. I also note the recommendation of the Local Authority's Water Services Department which did not raise any concerns regarding flooding.
- 7.11.3. A Site-Specific Flood Risk Assessment is received which focuses on the flood risk to the basement level of no. 44A and recommends mitigation including the provision of a surface water sump with 24hrs of storage and duty and standby pumps in the event of a grant of permission. I recommend a condition is included to ensure that mitigation is provided.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

- 8.1.2. The site is not situated within or adjacent to any European Site. The subject site is located 1.7km southwest of South Dublin Bay and River Tolka Estuary Special Protection Area as well as South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area.
- 8.1.3. The proposed development is set out previously in this report in more detail but in summary comprises demolition of 72.8m² domestic garage and construction of 3 dwellings with a total floor area of 684 m² as well as a new access road, landscaping and boundary treatments.
- 8.1.4. 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 on a European Site. The reason for this conclusion is as follows:
- The small scale and domestic nature of the proposed development in a serviced urban area, distance from European sites and urban nature of intervening habitats, absence of ecological pathways to any European sites
- 8.1.5. 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.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in a serviced urban area together with the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 including Policy Objectives PHP 19, PHP 20 , HER 21 and GIB6, as well as the 'A' zoning objective for the area, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would comply with local design guidance and would not seriously injure the visual or residential amenity of the area.

The development is, therefore, in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 25th day of April 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development the Developer shall submit, for the written agreement of the planning authority, all details of external materials and finishes including:</p> <p>(a) omission of the dormer windows on the rear elevation and their replacement with rooflights.</p> <p>Reason: In the interest of architectural harmony and residential amenity.</p>
3.	<p>Prior to the commencement of development the Developer shall submit, for the written agreement of the planning authority, a naming and numbering scheme for the proposed development.</p> <p>Reason: In the interest of proper planning and residential amenity.</p>
4.	<p>All mitigation measures outlined in the Site Specific Flood Risk Assessment lodged with the application shall be implemented in full, or otherwise agreed in writing with the planning authority prior to the commencement of development.</p>

	Reason: To prevent flooding and in the interests of sustainable drainage.
5.	<p>The landscaping scheme lodged with the application, as amended by the further plans and particulars received by the planning authority on the 25th day of April 2024 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
6.	<p>The access arrangements and works to the public footpath shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details of the access arrangements and works to the public footpath for the written agreement of the planning authority. This shall include:</p> <p>(a) Omission of boundaries between the right of way and the new access road to facilitate a turning area for users of the right of way.</p> <p>Reason: In the interest of traffic safety.</p>
7.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p>

	Reason: In the interest of public health.
8.	<p>Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and amenity.</p>
9.	<p>Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution of €68,288.93 (sixty eight thousand, two hundred and eighty eight euro and ninety three cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.</p> <p>Reason: It is a requirement of the Planning and Development Act</p>

	2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.

Sarah O'Mahony

Planning Inspector

07th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319907-24		
Proposed Development Summary	Demolition of shed and the construction of three dwellings, together with all associated site works.		
Development Address	Lands to the rear of 38 & 38A Greenfield Road (formerly side and rear of A94 W2R6) and 44A North Avenue (A94 V9W3), Mount Merrion, Blackrock, 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	No further action required
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			
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			
Yes	X	Class 10 (b)(i) Construction of more than 500 dwelling units.	Subthreshold development of construction of 3 dwellings.
			Proceed to Q.4

		Class 10 (b)(iv) 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.	Subthreshold development of 0.1 hectares of urban development.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

<p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	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>The development comprises 3 residential units in residential area so is not exceptional in the context of the existing environment.</p> <p>A short-term construction phase and permanent operational phase will generate different waste streams, emissions and</p>	No

	pollutants but none are considered significant due to the limited scale of the proposal.	
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and / or permitted projects?	The proposed dwellings will be 2.5 stories which is not exceptional in the context of the existing environment where dormer windows are noted in other two storey buildings. The height and width is also similar to surrounding dwellings. I am not aware of any other plans or projects in the area which would lead to significant cumulative impacts when considered in tandem with the proposed development.	No
Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?	No.	No
Conclusion		

There is no real likelihood of significant effects on the environment.
EIA is not required.

Inspector:_____

Date: 07th November 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)