



An  
Coimisiún  
Pleanála

## Inspector's Report

**PL-500543-DR-25**

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<b>Development</b>	Remodelling of house and all associated site works.
<b>Location</b>	41 Coliemore Road, Dalkey, Dublin A96DX90
<b>Planning Authority</b>	Dun Laoghaire and Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D25A/0761/WEB
<b>Applicant(s)</b>	Eugene & Mary Peppard
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Aideen Doyle
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 March 2026

**Inspector**

Paul Christy

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**Appendix A – Form 1: EIA Pre-Screening**

## 1.0 Site Location and Description

- 1.1. The subject property is located towards the southern end of the Dalkey headland in the south of the City. It is set back c.112m from the coastal edge and the finished floor level is c.1.5m higher than the adjacent road. With only the public road and Dillon's Park between the site and the coastal edge, and with the said Park sloping downwards towards the coastal edge, the property enjoys spectacular views to the sea. The Sorrento Park abuts the property to the south and west, and a pair of two-storey over basement semi-detached dwellings is located to the north of the subject site.
- 1.2. The project Architect advises that the property: *'was originally built as a 2-bay single storey cottage or bungalow ... The house has been altered and extended numerous times since originally constructed'*. The structure is not a Protected Structure and the Architect further advises that: *The extensions and alterations are of varying construction quality and are of no architectural merit'*.
- 1.3. As already indicated, the platform/base for the dwelling is elevated over the public road. There is a narrow (c.1.2m) terrace to the front of the dwelling. The area between the terrace and the road is treated with various hedgerows, low walls and steps providing access from the public road to the house and to the adjacent Sorrento Park. A parking space is provided immediately adjacent to, and generally at the same level as, the adjacent road.

## 2.0 Proposed Development

### 2.1. Proposed Development

- 2.1.1. The Project Architect advises that the Applicants: *'are seeking to create a low energy A rated, universal accessible, single occupancy family home'*.
- 2.1.2. Comparing the proposed ground floor with the existing ground floor, the following amendments are proposed:

- Front/eastern elevation to remain generally unchanged, save for minor adjustments to existing bay windows;
- Footprint to be extended on: northern side (conservatory at north-east corner to be removed, and area of existing patio to rear of existing conservatory to be incorporated into main body of house); and north-western and south-western corners.

2.1.3. It is proposed to remove the entire first floor, with the revised first floor incorporating the following elements:

- The new front/eastern elevation would be broadly parallel with the ground floor front elevation but recessed back between c.2.23m to allow for a first floor terrace over the ground floor. The terrace further extends out in a broadly triangular shape at the south-eastern corner of the dwelling.
- Extension of the first floor on the northern side (central and north-west corner) with the same footprint as the equivalent changes on the ground floor.
- Additional first floor area at south western corner. This is not over ground floor but over the landform at this part of the site.

2.1.4. A new entrance hall and storage area is proposed at basement/road level. This involves significant rock excavation.

2.1.5. Finally, the construction of a new vehicular entrance and associated site works is also proposed.

## 2.2. **Architects' Report and Other Specialist Reports**

2.2.1. The application is supported by an overview report by the project architects, as well as a number of specialist reports, including: a 'Sustainability Report' (TENT Engineering, 29 September 2025); two Radon Gas Tests (Radon Ireland Ltd, February 2026 and June 2026); (Untitled) Construction Methodology Recommendations Document (MED Consulting Engineers, 26th June 2026); Civil/Structural Engineer's Report (Paul Toal, September 2025).

## **3.0 Planning Authority Decision**

### **3.1 Decision: Grant Permission**

3.1.1. Condition 9 is relevant to the concerns raised in the Appeal and provides as follows:

*'Prior to the commencement of development, the applicant shall submit to the Planning Authority (for attention of Environmental Enforcement) for written agreement of a detailed sitespecific Construction Management Plan (CEMP) setting out proposals for environmental management of the proposed works to avoid the creation of serious environmental nuisance, such as noise, dust and other emissions that may be considered an environmental nuisance. Specifically, as part of the CEMP a site specific section of the plan should provide sufficient detail, to the satisfaction of the Environmental Enforcement section of DLRCC, that will demonstrate how the demolition, excavation and construction work will be undertaken to minimise disturbance from both Noise and Vibration. The applicant's attention is directed to Environmental planning Guidance available on the DLRCC website <https://www.dlrcoco.ie/environment/environmentalplanning-guidance>. Any proposals should be developed in accordance with the guidance. The Applicant and the appointed Contractor(s) shall ensure that in terms of Construction Waste, records shall be maintained and made available for inspection on site demonstrating tracking of all waste generated to final destination. REASON: In the interests of orderly development and the proper planning and sustainable development of the area.'*

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

3.2.1. [Planning Report]: One report on file dated 27<sup>th</sup> November, 2026 signed by a Senior Executive Planner and endorsed by a Senior Executive Officer and an Approved Officer. In terms of the issues raised in the appeal, the report includes the following relevant content:

- In the section headed 'Other Issues' (p.9), the Planner notes the sensitive coastal location and constrained road site area and road conditions as well as

the proposed works including excavation of rock, partial demolition and strip-out of the existing dwelling as well as construction of substantial extensions. Due to these factors, the Planner considers it necessary to require the submission of a Construction Environmental Management Plan by way of condition.

- In the section headed 'Third Parties' (p.10), the concerns of a third party (the Appellant) re land ownership and a '*right of way to the footpath*' are recorded. The Planner refers to Section 5.13 of the Development Management Guidelines and the statement therein that the planning system is not intended to resolve land ownership of (sic) right of way issues '*which instead is a separate legal matter. Therefore, this is not a material consideration to be assess (sic) as part of this application*'.
- The Planner also refers to queries regarding the submitted information and states that '*all necessary information required for validation purposes has been provided, some of which is not accessible on the public website due to data protection rights*'.

3.2.2. [Other Technical Reports]: The 'Drainage Planning' section advises of no objection, subject to standard conditions re surface water to be drained to a soakaway, and a permeable surface treatment for any changes to parking/hardstanding areas.

3.2.3. The 'Transportation Planning' section advises of no objection, subject to standard conditions.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. One submission received from Aideen Doyle, the Appellant. The submission includes the following points:

- Validation issues;

- Refers to other partial demolition and remodelling cases in the area and would appear to contend that such proposals can result in demolition;
- Proximity of site to Vico Road Architectural Conservation Area;
- Structural issues;
- Miscellaneous issues re impact on local amenities: (road geometry in area not amenable to timber frame delivery; external lift at side and rear will cause noise pollution; balcony will overlook the properties beside and will be an invasion of privacy; proposed overall height will be out of context with nearby house; arising from the increased height to 7.64m (ie. an increase of 1.09m over existing) will block light to the house beside it; re the proposed revisions to access – it is not possible to turn a car on the site as it currently stands without moving the original structure further back the Agent *'says that he is not doing that or taking out granite at front of house'*;
- Re the proposal to close off the private path to the existing front door, the Agent has no right to interfere with the access path to Sorrento Terrace. That is on someone else's title. Refers to title deeds etc.

## 4.0 Planning History

### 4.1. Subject Site (cases included on Local Authority system):

~ P.A. Ref. D24A/0239, ACP Ref. 321593: Demolition of existing 2 storey over partial basement house and construction of new two storey over partial basement house including vehicular entrance and associated site works. 2025 Refusal on grounds of insufficiently robust justification for the demolition, or an adequate demonstration that the existing dwelling cannot be remodelled, retro-fitted and re-used to improve energy efficiency and residential amenity. The development would therefore be inconsistent with Policy Objectives CA6 (Retrofit and Reuse of Buildings) and PHP19 of the Development Plan, and would be contrary to the provisions of Section 12.3.9 (Demolition and Replacement Dwellings) of the Development Plan.

~ P.A. Ref. D11B/0139 Single-storey bedroom extension at first floor level to side and rear, the roof level to be above existing roof level. 2011 Grant

~ P.A. Ref. D96B/0466 Extension to side, incorporating new bathroom, dressing rooms and storage. 1996 Grant.

4.2. **Subject Site (cases recorded in Local Authority Planner's Report on Ref. D24A/0239):**

~ 526/88 Permission granted for conservatory to side.

~ 32/85 Permission granted for attic storage and replacing front door and windows.

## 5.0 Policy Context

### 5.1. Development Plan: Dun Laoghaire - Rathdown County Development Plan 2022-2028

#### 5.1.1. Zoning

~ Land Use Zoning Objective A. The relevant objective is: *'To provide residential development and improve residential amenity while protecting the existing residential amenities.'*

#### 5.1.2. Climate Action

~ Policy Objective CA5: Energy Performance in Buildings - *'It is a Policy Objective to support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing and new buildings, including retro fitting of energy efficiency measures in the existing building stock.'*

~ Policy Objective CA6: Retrofit and Reuse of Buildings - *'It is a Policy Objective to require the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible recognising the embodied energy in existing buildings and thereby reducing the overall embodied energy in construction as set out in the Urban Design Manual (Dept. of Environment, Heritage and Local Government, 2009). (Consistent with RPO 7.40 and 7.41 of the RSES).'*

~ Policy Objective CA7: Construction Materials - *'It is a Policy Objective to support the use of structural materials in the construction industry that have low to zero embodied energy and CO2 emissions. (Consistent with the RPO 7.41 of the RSES).'*

~ Policy Objective CA8: Sustainability in Adaptable Design - It is a Policy Objective to promote sustainable approaches to the improvement of standards for habitable accommodation, by allowing dwellings to be flexible, accessible and adaptable in their spatial layout and design.

~ Policy Objective CA9: Radon Gas - *'It is a Policy Objective, in partnership with other relevant agencies, to promote best practice in the implementation of radon prevention measures.'*

~ Policy Objective PHP19: Existing Housing Stock – Adaptation - *'It is a Policy Objective to (includes):*

- *Conserve and improve existing housing stock through supporting improvements and adaptation of homes consistent with NPO 34 of the NPF'.*

### 5.1.3. Residential Amenity

~ 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.'*

~ Development Management Standard 12.3.7.1(iii) Extensions to the Side (of Dwellings) - *'Ground floor side extensions will be evaluated against proximity to boundaries, size, and visual harmony with existing (especially front elevation) and impacts on adjoining residential amenity. First floor side extensions built over existing structures and matching existing dwelling design and height will generally be acceptable. However, in certain cases a set-back of an extension's front façade and its roof profile and ridge may be sought to protect amenities, integrate into the streetscape, and avoid a 'terracing' effect. External finishes shall normally be in harmony with existing.'*

~ Development Management Standard 12.3.7.1(iv) Alterations at Roof/Attic Level (of Dwellings) - *'Roof alterations/expansions to main roof profiles - changing the hip-end roof of a semi-detached house to a gable/ 'A' frame end or 'half-hip' for example – will be assessed against a number of criteria including: ~ Careful consideration and special regard to the character and size of the structure, its position on the streetscape and proximity to adjacent structures. ~ Existing roof variations on the streetscape. ~ Distance/contrast/visibility of proposed roof end. ~ Harmony with the rest of the structure, adjacent structures, and prominence.'*

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is located close to the following designations: c.82m to the west of the Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code 001206); c.165m to the west of the Rockabil to Dalkey Islands Special Area of Conservation (003000); and 220m to the west of the Dalkey Islands Special Protection Area (004172).
- 5.2.2. The site is also located: 4.83km from the South Dublin Bay SAC (000210); 9km from the North Dublin Bay SAC (000206); 4.32km from the South Dublin Bay and River Tolka Estuary SPA (004024); 8.92km from the North Bull Island SPA (004006); and 7.97km from the North-west Irish Sea SPA (004236).

## **6.0 EIA Screening**

- 6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001 (As Amended). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. The Appeal cites the following range of concerns:

- Potential conflict of interest between a Council official and an applicant on a separate, unspecified planning application.
- Applicants' lack of documentary evidence of ownership or consent from the legal owner of the site; this raises serious questions about the validity of the application under Article 22(1)(d) of the Planning and Development Regulations, 2001 (As Amended).
- Validation issues (missing signatures). Refer to the case of *Walsh & Anor v An Bord Pleanala (2021) IEHC 523*; and *Golden v Kerry County Council (2008) IEHC 324*.
- The proposed works may pose significant structural risks to adjoining properties due to eg. excavation depth, proximity to boundary walls, or inadequate engineering details. These risks have not been adequately addressed in the application or supporting reports.

7.1.2. In light of the above, the Appellant requests that the Commission:

1. Review the validity of the application;
2. Confirm whether the application complies with all statutory requirements under planning legislation; and
3. Require a full independent structural and vibration impact assessment before any works involving granite drilling are permitted to proceed.

### **7.2. Applicants' Response**

7.2.1. The Applicants' agents responded to the submission. The response is in two parts. The first part refers to the status of the Appellant. The second part addresses the grounds of appeal.

7.2.2. Status of Appellant: The Agents refer to, and quote, a High Court Judgement and question the identity of the Appellant in the subject appeal. It is contended that the Appeal is frivolous and without substance and the Commission should utilise its legislative powers under Section 138(1)(a)(i) of the Act to dismiss the appeal. The Agents list the five grounds of appeal and state that the appeal does not contain any valid planning argument in respect of the proposal. On 3<sup>0th</sup> January, 2026 the Commission wrote to the Agents and advised that it was satisfied that the Appeal meets all of the criteria as set out in Section 127 of the Act, and that the Appeal process shall continue until determination.

7.2.3. Response to Grounds of Appeal

- Potential Conflict of Interest: There is no conflict of interest, or potential conflict of interest: despite the same surname, Applicants are not related to the official at the Local Authority named in the Appeal; Applicants do not know, have never met nor have had any personal relationship with the official; Applicants' sole interaction with the Local Authority regarding the application has been via their professional advisers.
- Lack of Proof Of Ownership: Applicants are not required to provide proof of ownership. The legislation requires them to state their legal interest in the site, which they have done at Question 10 on the application form. The Applicants acquired the property in July 2023 following standard conveyancing procedures.
- Missing Signatures and Procedural Irregularities: Used the online planning portal to submit in electronic format. Application form cannot be signed using this format.
- Potential Structural and Safety Risks: Owners of adjoining property did not file an observation; Engaged with adjoining owners on previous application and they were satisfied that best practice construction methods would be followed to ensure no risks to their property during construction; Condition 9 of the Local Authority decision requires the submission of a Construction Management Plan that inter alia '*will demonstrate how the demolition,*

*excavation and construction work will be undertaken to minimise disturbance from both noise and vibration’.*

- Right of Way To Adjoining Park: According to the Land Direct website, there is no registered right of way to Sorrento Park adjacent to the site; Acknowledge that there are steps to the Park adjacent to the site. These steps are not within the appeal site and no work is proposed to them. It is proposed to provide a new boundary wall within the appeal site beside the steps which will enhance the steps as a means of access to the Park.

### **7.3. Planning Authority Response**

- 7.3.1. Considers that the grounds of appeal do not raise any new matter which, in the opinion of the Authority, would justify a change of attitude to the proposed development.

## **8.0 Assessment**

### **8.1. Overview**

- 8.1.1. Having examined the application details, and all other documentation on file including the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local policies and guidance, I consider that the substantive issues in this appeal to be assessed are as follows:

- The degree of compliance, or otherwise, with climate change-related Policy Objectives of the Development Plan, particularly Policy Objective CA6: ‘Retrofit and Reuse of Buildings’;
- Other planning issues raised in the Appeal;
- Neighbours’ Amenities (Northern Side); and
- Technical Standards

## 8.2. Climate Change-Related Policy Objectives

- 8.2.1. Policy Objective CA6 *requires the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible...* Policy Objective PHP19: 'Existing Housing Stock – Adaptation' is similar in content. The proposed development is neither for a full retrofit and reuse of the building, nor is it for its full demolition and reconstruction. Rather, it is somewhere in between as it reuses a portion of the existing building, but also incorporates elements of new construction.
- 8.2.2. The rationale for the proposed approach is set out in a number of specialist reports submitted with the application and effectively summarised in the Project Architects' submission with the application under two headings as set out below.

### Existing Sub-Division and Defects

- 8.2.3. The most recent extension to the side and rear has been used as a granny flat in contravention of both permissions. These 'extensions' were actually constructed as a self-contained 'granny flat' which has been sub-divided from the original dwelling. This sub-division means that the only internal access from the main dwelling to the extension is from a bedroom in the main dwelling to an ensuite bathroom in the 'granny flat'.

### Existing Structural Defects, Non-Compliance With The Building Regulations and Non-Compliance with Previously Granted Planning Permissions

- 8.2.4. The Project Architects note the following examples of the most serious defects and evidence of non-compliance:
- Development of the upper floor accommodation was enabled by works that have caused '*serious structural defects*' of the overall building including: (a) the removal of a ground floor dividing wall and chimney breast and replacement with inadequate steel beams to support the remaining chimney stack over and (b) the cutting, mid span, of a structural purlin supporting the front of the main roof to install Velux roof windows causing the roof to sag indicating that the strength of the original timber structure has deteriorated with a potential risk of collapse under heavy snow load for example. In relation

to Point (a) above, Thornton Chartered Surveyors advised of serious concerns in relation to the poor standard of this previous alteration work and that there is a serious risk of the existing beam supports failing.

- The upper floor spaces do not conform to habitable use under even the pre 1990 building regulations because the ceiling heights are less than 2.4 meters, ventilation is minimal and the spiral stairs, which is the only stairs that accesses the main first floor level/attic storage space, is contrary to both Part K (Stairways ramps & guards) and Part M (Fire) of the Building Regulations.
- Excessive and unsafe Radon levels have been recorded in all parts of the dwelling including the most recent extension. In his report, the Civil/Structural Engineer (Paul Toal) referred to the likely radon nature of the fill material used under the ground floor, the fact that the property has been identified as a high risk area by EPA, and the additional risks of damp, condensation and timber decay, and concluded that: *'the existing construction poses a serious health and safety risk for occupants'*.
- Inadequate fire separation between the main dwelling and the 'granny flat'.
- Ends of joists in original timber suspended floors may be bedded directly into the external walls and may be resting on damp earth with a risk of the joists rotting leading ultimately to structural failure of the floor.
- Extensive damp readings and visible salts on external wall.
- Original main house is of solid masonry construction therefore prone to heat loss.
- Mix of windows aluminium, timber and upvc. Numerous double glazing with broken down seals in many of the panes in the conservatory.
- Due to the age of the structure the rainwater fittings are likely to contain Asbestos.

8.2.5. In the above-noted context, the main components of the proposed development in terms of quantities may be summarised as below:

- Ground Floor: Most of existing ground floor to be retained, with some new additions to northern side/north-western corner, and south-western corner. 136.1m<sup>2</sup> (81%) out of the 169m<sup>2</sup> existing habitable space is to be retained with 32.9m<sup>2</sup> (or 19%) to be demolished.
- First Floor: Entire existing first floor measuring 78.3m<sup>2</sup> to be removed and new first floor with gross floor area of 162.9m<sup>2</sup> to be constructed. The Project Architects state that '*it is not practical to retain any of the existing floor space*'. The entire first floor of the original dwelling does not meet the minimum standard for floor to ceiling height so that that space measuring 43.8m<sup>2</sup> and within the attic is effectively non-habitable walk-in storage.
- Basement Level: Removal of small garage (12.8m<sup>2</sup>), and addition of larger space with gross floor area of 41.05m<sup>2</sup> to provide a small store and a larger entrance hall.

8.2.6. In summary, it is proposed to retain 136.1m<sup>2</sup> of the existing 260.1m<sup>2</sup> gross floor area (or 136.1m<sup>2</sup> of the existing 203.4m<sup>2</sup> habitable floor area), and to construct 253.9m<sup>2</sup> of new floor area.

8.2.7. Part, if not all, of the rationale for the policy preference for retrofitting and reuse of existing buildings rather than their demolition and reconstruction content as contained in Policy Objective CA6 is a recognition of the embodied energy in existing buildings and that the reuse of existing dwellings will reduce the overall embodied energy in construction as set out in the Urban Design Manual (Dept. of Environment, Heritage and Local Government, 2009). These matters are considered in the 'Sustainability Report' prepared by TENT Engineering. This Report includes the following key findings:

- The BER rating of the existing house is D1. Even with a deep retrofit and an airtight and sustainably built extension, achieving a BER of B2, in line with the Government of Ireland's National Retrofit Plan would not be possible and that a C1 rating would realistically be the upper limit of what could be achieved.

- Analysis clearly demonstrates that the proposed project is far more sustainable than a low energy refurbishment and can achieve an extremely low operational carbon rating of A1. To achieve this rating, renewable systems will include a solar panel array on the south facing rear face of the main roof and an air to water heat pump. The embodied carbon of the proposed partial extension and retention can also be minimised so that the overall embedded carbon investment could be recovered in circa 13 years.
- Analysis concludes that the proposed development will have dramatically lower carbon emissions going forward than an alternative deep low energy retrofit approach and more than justify the short term embedded carbon investment to realise the proposal. Over an assumed life of 60 years, it is estimated that the proposed development will save a net 313 tonnes of CO<sub>2</sub> compared to a possible retrofit/refurbishment of the existing building and 553 tonnes compared to the existing dwelling as it stands.

8.2.8. Policy Objective CA7: Construction Materials: Policy Objective CA7 supports the use of structural materials that have low to zero embodied energy and CO<sub>2</sub> emissions. It is noted in the Sustainability Report prepared by TENT Engineering that the Applicants are committed to ensuring low carbon materials, such as a low carbon cement alternative, reuse of on-site granite for boundary elements, precast hollow core slabs with galvanised square hollow section posts/beams, energy efficient glazing and natural slate roofing.

8.2.9. Policy Objective CA5: Energy Performance in Buildings: Policy Objective CA5 supports high levels of energy conservation, energy efficiency and the use of renewable energy sources. The proposed development includes solar panels and an air to water heat pump, as well as triple glazing.

8.2.10. Policy Objective CA8: Sustainability in Adaptable Design: Policy Objective CA8 promotes sustainable approaches to the improvement of standards for habitable accommodation, by allowing dwellings to be flexible, accessible and adaptable in their spatial layout and design. The proposed gently sloped driveway gradient and internal lift will help to enable such accessibility and flexibility.

- 8.2.11. Policy Objective CA9: Radon Gas: This Policy Objective promotes best practice in the implementation of radon prevention measures. In order to mitigate the identified high radon levels identified at the property, the proposed works include excavating below the existing ground floor and using various construction techniques to ensure compliance with relevant Building Control standards<sup>1</sup>.
- 8.2.12. Climate Change Conclusion: Having regard to: the extent of the evidenced deficiencies in the existing structure; the demonstrated superior CO2 performance of the proposed partial demolition, renovation and extension over a retrofit and reuse of the existing dwelling approach; the proposed use of energy efficient materials; the proposed energy conservation measures; the universal access measures; and the radon mitigation measures, it is my opinion that the proposed development collectively demonstrates adequate compliance with the relevant climate change Policy Objectives of the Development Plan.

### 8.3. **Other Planning Issues Raised In The Appeal**

- 8.3.1. The Appellant raises a number of issues and these are considered below.
- 8.3.2. Potential Conflict of Interest: The Appellant alleges a potential conflict of interest between a Council official and an applicant on a separate, unspecified planning application. In their response to the Appeal, the Applicants state that there is no conflict of interest, or potential conflict of interest and further advise that: despite the same surname, the Applicants are not related to the official at the Local Authority named in the Appeal; the Applicants do not know, have never met nor have had any personal relationship with the official; and the Applicants' sole interaction with the Local Authority regarding the application has been via their professional advisers.
- 8.3.3. The Appellant's claims are general and unsubstantiated and, in my opinion, are outwith the jurisdiction of the Commission.
- 8.3.4. Applicants' Ownership/Consent: The Appellant refers to a lack of documentary evidence of ownership or consent from the legal owner of the site and state that this

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<sup>1</sup> S.R. 21 2014 + A1: 2016 Annex e – Aggregates for Use As hardcore under Concrete Slabs and Footpaths, Irish Concrete Federation

raises serious questions about the validity of the application under Article 22(1)(d) of the Planning and Development Regulations, 2001 (As Amended). In their response to the Appeal, the Applicants included a letter from a Planning Consultant advising that the Applicants acquired the property in July 2023 following the standard conveyancing procedures.

- 8.3.5. I am satisfied that the Applicants have provided sufficient evidence of their legal intent to make an application and that no evidence to the contrary has been provided. Any further legal dispute is considered a Civil matter and outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act, 2000 (As Amended).
- 8.3.6. Validation Issues: The Appellant refers to the absence of signatures on the application form from the Applicants and agent. In their response to the Appeal, the Applicants included a letter from a Planning Consultant advising that the application was submitted via the Local Authority on-line planning portal. As part of that process, the Applicants issued their consent to their primary agents to submit the application in electronic format. As a result, the on-line application form is not signed and cannot be signed.
- 8.3.7. I would agree with the Applicants that it is not possible to sign the forms when using the on-line system.
- 8.3.8. Potential Structural and Safety Risks: The Appellant states that the proposed works may pose significant structural risks to adjoining properties due to eg. excavation depth, proximity to boundary walls, or inadequate engineering details. The Appellant further states that these risks have not been adequately addressed in the application or supporting reports. The Applicants' Planning Consultant response included that: the owners of the adjoining property did not file an observation; they have engaged with adjoining owners on the previous application and they were satisfied that best practice construction methods would be followed to ensure no risks to their property during construction; and Condition 9 of the Local Authority decision requires the submission of a Construction Management Plan that inter alia 'will demonstrate how

the demolition, excavation and construction work will be undertaken to minimise disturbance from both noise and vibration’.

- 8.3.9. Comparing the cross-sections submitted with the subject application with those for the previous application (ACP Ref. 321593), I note that the levels of excavation for each proposal are shown as being very similar. I also note that the Local Authority’s Senior Executive Scientist submitted a report on the previous application<sup>2</sup> and advised that that the proposal can be undertaken in accordance with standard methods of construction and subject to the inclusion of recommended conditions in the event of a grant of Planning Permission. The conditions included, inter alia, the submission of a Construction and Environmental Management Plan (CEMP), which Plan was to include a site specific section of the plan providing sufficient detail, to the satisfaction of the Environmental Enforcement section of the Local Authority, that will demonstrate how the demolition, excavation and construction work will be undertaken to minimise disturbance from both Noise and Vibration.
- 8.3.10. Having regard to the aforementioned, and to the decision of the Commission to refuse the previous application but without reference to structural and safety risks, I am satisfied that these matters can be addressed by way of condition, should a positive decision be forthcoming.
- 8.3.11. Right of Way to Adjoining Park: The Appellant refers to ‘a long-standing right of way providing access to the public park adjacent to the site’ and that ‘it is recorded on the title of the neighbouring property and is in regular use by local residents’. The Appellant concludes that: ‘*The proposed development appears to obstruct or interfere with this access which would be contrary to the neighbour’s property rights and the public interest*’. Planning Consultants for the Applicants advise that according to the Land Direct website, there is no registered right of way to Sorrento Park adjacent to the site. They acknowledge that there are steps to the Park adjacent to the site. (However,) These steps are not within the appeal site and no work is proposed to them. It is proposed to provide a new boundary wall within the

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<sup>2</sup> There is no equivalent report on the subject Local Authority file.

appeal site beside the steps which will enhance the steps as a means of access to the Park.

- 8.3.12. I note that the Development Plan does not identify a public right of way at the location referred to by the Appellant. Any other type of right of way issue between private parties is again considered to be a civil matter and outside the scope of the planning appeal, and is a matter to be resolved between the parties, having regard to the provisions of S.34(13) of the Planning and Development Act, 2000 (As Amended). Otherwise, the submitted plans do not indicate any interference to the steps will arise.

#### **8.4. Neighbours' Amenities (Northern Side)**

- 8.4.1. The existing main structure includes ground floor and basement accommodation only in close proximity to the northern party boundary. The northern elevation is set back c.2.15m from the party boundary at the front of the subject dwelling (ie. the conservatory) and tapers to c.1.6m towards the rear. The nearest part of the first floor is set back c.5.14m from the party boundary at the front elevation tapering to 4.59m to the rear.
- 8.4.2. The proposed development includes an expanded footprint and increased height on the northern side. The separating distance of the elevation of both floors to the party boundary is proposed at c.1.71m at the front of the proposed dwelling, tapering to c.1.28m towards the rear. The plans also show the northern eave as being 0.319m from the party boundary towards the rear tapering outwards to 1.01m at the front of the dwelling. The proposed roof is hipped on this side and the submitted plans show the eaves level as 105.55 relative to the ridge level of the adjacent dwelling as 105.51. The plans also show ridge levels of 107.10 and 107.64 although these levels are further removed from the party boundary (c.3.36m in the case of level 107.10; and c.8.64m in the case of level 107.64).
- 8.4.3. The nearest upper floor windows on the northern side shown consistently on the floorplans and elevations serves a proposed kitchen, living room and family area are set back c.5.54m from the party boundary.

- 8.4.4. Having regard to: the mass and ridge height of the adjacent dwelling and its proximity to the party boundary; to the tall and mature vegetation within the site on or immediately adjacent to the party boundary; to the absence of fenestration on the northern elevation (nb. refer to para. 8.4.5 below); and the incorporation of a gently sloping hipped roof, I am satisfied that the proposed development will integrate satisfactorily with its local context and will not have any unduly negative impact on the amenities of the adjacent property.
- 8.4.5. I note that three small square windows serving the first floor landing/study area are shown on the northern elevation but not on the corresponding first floor floor plan. This can be addressed by condition.

## 8.5. Technical Considerations

- 8.5.1. Drainage: The existing dwelling is served by a combined foul and surface water network which connects to existing main public sewer at the road edge. It is proposed to separate foul and surface water. A new surface water pipework system to the front and rear of the new house is proposed to collect rain water from the roof and terraces to discharge into new soakaways to the front and rear. A new separate network of foul water pipework is proposed which will discharge into the existing public sewer at the road edge.
- 8.5.2. The Local Authority's 'Drainage 'Drainage Planning' section advises of no objection, subject to standard conditions. re surface water to be drained to a soakaway, and a permeable surface treatment for any changes to parking/hardstanding areas.
- 8.5.3. Access: The proposed development includes re-configuration of the site frontage to provide for the construction of new vehicular entrance and internal turning area. The Local Authority's 'Transportation Planning' section advises of no objection, subject to standard conditions.

## 8.6. Development Contributions

- 8.6.1. Under the Dun Laoghaire and Rathdown Development Contribution Scheme, 2023-2028, contributions are payable on domestic extensions, subject to the first 40m<sup>2</sup> of

the liable floorspace being exempted. A condition requiring payment is included in the recommended conditions.

## **9.0 AA Screening**

- 9.1. I have considered the proposed remodelling of a house and all associated site works at 41 Coliemore Road, Dalkey, Dublin A96DX90 in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located: 0.15km from the Rockabill to Dalkey Islands SAC (Site Code 003000); 4.83km from the South Dublin Bay SAC (000210); 9km from the North Dublin Bay SAC (000206); 0.17km from the Dalkey Islands SPA (004172); 4.32km from the South Dublin Bay and River Tolka Estuary SPA (004024); 8.92km from the North Bull Island SPA (004006); and 7.97km from the North-west Irish Sea SPA (004236). The proposed development comprises: the partial demolition of an existing dwelling; the remodelling of the dwelling to include an expanded basement (requiring rock excavation), an expanded ground floor, a new first floor, connection to the public sewer and discharge of surface water via on-site soakaways
- 9.2. No nature conservation concerns were raised in the planning appeal.
- 9.3. An AA Screening Report prepared by 'Enviroguide Consulting' was submitted with the application to the Local Authority. In the Report's Introduction, it is noted that all reporting has been carried out by qualified and experienced ecologists and environmental consultants. I note that this report is dated October 2024 and was prepared for the previously proposed demolition and rebuild project. The report is still informative for the subject proposal, however, given the similarity of scale between the previous and current proposals, and particularly as the previous proposal also involved demolition and this was fully reflected in the said Screening Report.
- 9.4. Having considered the nature, scale and location of the project, I agree with the conclusions of the AA Screening Report that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reasons for this conclusion are as follows:

~ Whilst there is a potential hydrological pathway between the site and South Dublin Bay SAC (000210), South Dublin Bay and River Tolka SPA (004024), North Dublin Bay SAC (000206), North Bull Island SPA (004006) and North-West Irish Sea SPA (004236) as the foul effluent will discharge into the Irish Sea via the Ringsend Wastewater Treatment Plant during the Operational Phase of the proposed development, the foul water output of the proposed development is low and consistent with that of the surrounding area and thus is not envisaged to have a significant effect on any European sites.

~ Whilst a potential hydrogeological pathway was identified between the Proposed Development and both Dalkey Islands SPA (004172) and Rockabill to Dalkey Islands SAC (003000) as a result of soil exposure during groundworks and excavation during the construction, given the small-scale of the Proposed Development, temporary nature of basement works, and the marine environment within which these two European sites are situated (in particular the assimilative capacity of which will dilute any potential effects) it can be concluded that there is no potential for significant effects on any European sites arising as a result of the Proposed Development propagated via a hydrogeological pathway.

I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **10.0 Water Framework Directive Screening**

10.1. The subject site is located c.95m from the Irish Sea Coastal Waterbody IE\_EA\_090\_0000. The site is also located over the Kilcullen Ground Waterbody IE\_EA\_G\_003. The proposed development is for the remodelling of an existing house and all associated site works. It is proposed to connect to the existing public foul sewer, and to discharge surface water via on-site soakaways. No water deterioration concerns were raised in the planning appeal.

10.2. I have assessed the proposed remodelling of an existing house and all associated site works and the proposal to connect to the existing public foul sewer, and to discharge surface water via on-site soakaways, and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.3. The reason for this conclusion is as follows:

- Whilst there is a potential hydrological pathway between the site and Irish Sea as the foul effluent will discharge into the Irish Sea via the Ringsend Wastewater Treatment Plant during the Operational Phase of the proposed development, the foul water output of the proposed development is low and consistent with that of the surrounding area and thus is not envisaged to have a significant effect the said waterbody; and
- Whilst there is a potential hydrogeological pathway between the site and the nearby Irish Sea as a result of soil exposure during groundworks and excavation during the construction, given the small-scale of the proposed development and the assimilative capacity of the Sea, which will dilute any potential effects, it can be concluded that there is no conceivable risk to this waterbody either qualitatively or quantitatively.

10.4. Conclusion: I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Recommendation

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

## 12.0 Reasons and Considerations

12.1. Having regard to the demonstrated carbon footprint qualities of the proposed development, the location of the site, the design and scale of the proposed development, and the proposed servicing arrangements, it is considered that, subject to compliance with conditions below, the proposed development would be consistent with the climate change policy objectives of the Dun Laoghaire and Rathdown Development Plan, 2022-2028, would not be injurious to the general amenity of the area, and would not seriously injure the visual or residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The three square windows identified on the first floor on the 'Side Elevation North (Proposed)' plan is not hereby permitted.</p> <p><b>Reason:</b> To clarify the terms of the permission and to cater for orderly</p>

	development.
3.	<p>The entire dwelling shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate habitable units:</p> <p><b>Reason:</b> To cater for orderly development.</p>
4.	<p>Surface water arrangements for the proposed development, inclusive of the proposed soakaways and permeable paving shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interests of public health.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Specifically, a section of the Plan shall provide sufficient detail, to the satisfaction of the Environmental Enforcement section of the Local Authority, demonstrating how the demolition, excavation and construction work will be undertaken to minimise disturbance from both Noise and Vibration. The Applicants' attention is directed to Environmental planning Guidance available on the Local Authority website <a href="https://www.dlrco.ie/environment/environmental-planning-guidance">https://www.dlrco.ie/environment/environmental-planning-guidance</a>. Any proposals should be developed in accordance with the guidance.</p> <p>The Applicants and the appointed Contractor(s) shall ensure that in terms of Construction Waste, records shall be maintained and made available for inspection on site demonstrating tracking of all waste</p>

	<p>generated to final destination.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
6.	<p>The existing mature trees/hedgerow on/adjacent to the northern boundary shall be retained.</p> <p><b>Reason:</b> To preserve the residential amenities of the area and in the interests of orderly development.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.</p> <p><b>Reason:</b> In the interests of orderly development.</p>
8.	<p>All necessary measures shall be taken by the Applicant and Contractor to:</p> <ul style="list-style-type: none"> <li>a) Prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of site construction works;</li> <li>b) Repair any damage to the public road arising from carrying out the works;</li> <li>c) Avoid conflict between construction activities and pedestrian/vehicular movements</li> </ul> <p><b>Reason:</b> To cater for orderly development.</p>
9.	<p>Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p><b>Reason:</b> To cater for orderly development.</p>

10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, 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.</p>
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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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Paul Christy  
Planning Inspector

12<sup>th</sup> March 2026

## Appendix A: Form 1 EIA Pre-Screening

<b>Case Reference</b>	PL-500543-DR-25
<b>Proposed Development Summary</b>	Remodelling of house and all associated site works.
<b>Development Address</b>	41 Coliemore Road, Dalkey, Dublin A96DX90
<b>IN ALL CASES CHECK BOX /OR LEAVE BLANK</b>	
<p><b>1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?</b></p> <hr/> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> <li>- The execution of construction works or of other installations or schemes,</li> <li>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</li> </ul>	<p><input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.</p>
<p><input type="checkbox"/> No, No further action required.</p> <hr/>	
<b>2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p><b>EIA is mandatory. No Screening required. EIAR to</b></p>	<p><b>State the Class here</b></p>

be requested. Discuss with ADP.	
✓ No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in <u>Part 2</u>, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
✓ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	
<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
Yes	Screening Determination required (Complete Form 3)
No ✓	Pre-screening determination conclusion remains as above (Q1 to

	Q3)
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Inspector: \_\_\_\_\_

Date: \_\_\_\_\_