



An
Bord
Pleanála

Inspector's Report ABP307180-20

Development	Construction of a two-storey dwelling in rear garden of existing dwelling with access onto Castilla Park.
Location	91 Blackheath Park, Clontarf.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4472/19.
Applicants	James and Noreen O'Dea.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	(i) David and Frances Gorman. (ii) Castilla Park Residents.
Observers	Peter and Helen Mulhall.
Date of Site Inspection	7 th September, 2020.
Inspector	Paul Caprani.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority's Decision	4
4.1. Decision	4
4.2. Documentation Submitted with the Planning Application	4
4.3. Internal Reports.....	5
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	6
6.4. Observations.....	9
7.0 Appeal Responses.....	9
8.0 Planning Policy	13
9.0 EIA Screening Determination.....	15
10.0 Planning Assessment.....	15
11.0 Conclusions and Recommendation.....	22
12.0 Appropriate Assessment	23
13.0 Reasons and Considerations	23
14.0 Conditions	23

1.0 Introduction

ABP307180-20 relates two number third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for a two-storey detached dwelling within an existing rear garden of No. 91 Blackheath Park, Clontarf. The grounds of appeal argue that the confined nature of the site will result in a substandard development, the proposal will result in a traffic hazard and will significantly impact on surrounding residential amenities.

2.0 Site Location and Description

- 2.1. Blackheath Park is located in the suburban residential area of Clontarf c.6 kilometres north-east of Dublin City Centre. Blackheath Park is a long straight road linking Castle Avenue and Vernon Avenue and accommodates semi-detached two-storey dwellings dating from the mid-20th century. The subject site forms part of a long line of semi-detached dwellings facing northwards onto Blackheath Park. No. 91 Blackheath Park is located at the eastern end of the road, approximately 100 metres from its junction with Vernon Avenue. The dwellings fronting onto Blackheath Park incorporate relatively generously sized plots with the rear gardens approximately 30 metres in length. No. 91 backs onto Castilla Park to the south, a small infill residential development which is more recent in origin than the residential development in the surrounding area. Castilla Park is a relatively narrow L-shaped cul-de-sac accommodating approximately 30 dwellings. A large c.2.5 metre pebbledash wall runs along the rear boundary of the site adjoining Castilla Park. No's 7 and 8 Castilla Park are located directly opposite the rear boundary of the site. A c.1.2 metre wide footpath runs along the northern side of Castilla Park adjacent to the rear boundary. Currently, the subject site forms part of the rear private garden of No. 91 Blackheath Park.
- 2.2. It is proposed to cordon off a section of the rear garden in order to accommodate a separate residential unit. The area to be cordoned off is between 15 and 17 metres in depth and 12.1 metres in width. The site has a total area of 188 square metres.

3.0 Proposed Development

- 3.1. Planning permission is sought for a two-storey two-bedroomed dwellinghouse which is to face southwards on to Castilla Park. The dwelling is to be set back between 6 and 10 metres from the boundary with Castilla Park. The dwelling is to incorporate a pitched roof and is to rise to a ridge height of just less than 7.3 metres. It is to accommodate living accommodation at ground floor level and two bedrooms and a bathroom at first floor level. The dwelling is to incorporate two contemporary style dormer type windows at first floor level serving the two bedrooms facing southwards onto Castilla Park. The building is to incorporate a plaster render finish on the walls and a blue/black slate finish on the roof. The front boundary of the site is to incorporate a pedestrian gate together with a sliding gate with vertical timber slats to accommodate an off-street car parking space within the courtyard area.
- 3.2. The dwellinghouse has a gross floor area of 130 square metres.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council issued notification to grant planning permission for the proposed development subject to 10 standard conditions.

4.2. Documentation Submitted with the Planning Application

- 4.2.1. A planning report was submitted with the application. It states that the applicant's who reside in No. 91 Blackheath Park are both retired and now wish to construct a smaller house to the rear of their dwellinghouse to allow them to relocate. The planning report sets out details of the proposal and the site history. The report also sets out the design rationale and assesses the proposal in the context of the policies and provisions contained in the current Dublin City Council Development Plan. The report also provides details in relation to access and utilities and notes that there are no flood risk issues associated with the development.
- 4.2.2. The planning report also contains as Appendix A, a shadow casting analysis arising from the proposed development.

4.3. Internal Reports

- 4.3.1. A report from the Engineering Department – Drainage Division states that there is no objection to the proposed development subject to standard conditions.
- 4.3.2. A report from the Transportation Planning Division notes that the proposed development will accommodate vehicular parking on site, to the front of the dwelling and will not be reliant on informal on-street parking. In this regard the proposal will not exacerbate the current unauthorised parking in the estate. It is also considered that there is adequate turning movement to the front of the dwelling to allow for safe manoeuvrability on site for cars exiting the site. There is therefore no objection to the proposed development subject to standard conditions.
- 4.3.3. The initial planner's report assesses the proposed development in relation to:
- Aspect, natural lighting, ventilation and sunlight penetration.
 - Private open space.
 - Access and car parking.
 - Impact on residential amenities of adjoining sites.
 - Impact on the character of the area.
- 4.3.4. It recommends that further information be submitted in relation to:
- Landscaping, bin storage and private open space.
 - Further details in relation to the gates and railings. Any such front boundary arrangements should prohibit overlooking of the proposed private open space to the front of the dwelling from Castilla Park.
- 4.3.5. Further information was submitted on behalf of the applicant by Friel Architects on the 27th February, 2020. This information provides further details in relation to parking, bin storage, garden storage sheds and hard and soft landscaping.
- 4.3.6. The proposal also included further details in relation to the front boundary walls and gates which includes for a 750 millimetre gate incorporating slats and fins in order to address the issue of overlooking.
- 4.3.7. A subsequent planner's report dated 30th March, 2020 expresses general satisfaction with the information submitted in response to the request by the Planning

Authority and recommended that planning permission be granted for the proposed development.

- 4.3.8. In its decision dated 30th March, 2020, Dublin City Council issued notification to grant planning permission for the proposed development subject to 10 conditions.

5.0 Planning History

- 5.1. No appeal files are attached. Details of the planning history is set out in the planning report submitted with the application. The following application is of relevance.
- 5.2. Under Reg. Ref. PL29N.211962, An Bord Pleanála overturned the decision of Dublin City Council to grant planning permission for the erection of a two-storey three-bedroomed dormer style house to the rear of No. 91 Blackheath Park. The Board refused permission for the following reason.

“Having regard to the restricted nature of the site, it is considered that the proposed development would not comply with the minimum standards for private open space set out in the Residential Density Guidelines issued by the Department of the Environment and Local Government to Planning Authorities in September, 1999 and would contravene the open space standards contained in the current Dublin City Development Plan. The proposed development would constitute a substandard form of development, which would seriously injure the amenities of property in the vicinity and would fail to provide an acceptable level of residential amenity for the future occupants of the proposed house. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

A copy of the planning inspector’s report relating to this appeal is attached in a pouch to the rear of the file.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council was the subject of 2 no. third party appeals. The first was submitted on behalf of the residents of Castilla Park by Kiaran O’Malley and Company, Planning Consultant, the second was submitted by Virtus Consultants on behalf to the owners of No. 89 Blackheath Park.

6.2. Submission by Kieran O'Malley and Associates

- 6.2.1. This appeal sets out the planning history and notes that planning permission was refused for a similar development under PL29N.211962 (see planning history above). It is argued that the current proposal is of a similar size and massing and scale to the previous application which the Board already determined was inappropriate on such a restricted site.
- 6.2.2. Reference is made to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas which states that all houses should have an area of private open space behind the building line. The courtyard arrangement to the front of the dwellinghouse does not constitute acceptable amenity space as it is used for car parking.
- 6.2.3. Concerns were also expressed in relation to overshadowing. It is noted that the applicants' submission does not refer to the BRE Guidelines and therefore no firm conclusion can be reached as to whether the proposal complies with these guidelines. The proposal does not provide any detailed calculations as to how the overshadowing was determined nor does it show the existing situation with regard to overshadowing. It is therefore argued that the shadow analysis provided does not comply with the requirements of the BRE Guidelines.
- 6.2.4. It is argued that there is insufficient and inadequate turning space within the appeal site for cars to enter or exit the site.
- 6.2.5. It is also argued that the quantum of private open space is insufficient and the drawings do not indicate how landscaping can be provided that does not impinge on cars manoeuvring in and out of the front courtyard. It is suggested that the private open space which is stated at 57 square metres comprises in the main of utility space associated with access to and from the house.
- 6.2.6. It is argued that all three adjoining properties (No. 91 to the north and No. 89 and 93 to the east and west) would be impacted due to the visual overbearing impact and overshadowing impact arising from the structure. Furthermore, the proposed dwelling would present as a substantial blank elevation to the rear of No. 91 and would result in significant overshadowing of the back garden. It is estimated that the proposed dwellinghouse is a mere 8 metres from the rear elevation of No. 89 and this separation distance is wholly inadequate.

6.2.7. The access and egress design fails to provide and facilitate visibility splays to ensure a clear line of sight between vehicles both on the horizontal and vertical planes at Castilla Park. This is a requirement for DMURS and the NRA's Technical Guidance on Geometric Design of Junctions. This would put road users at risk specifically children, elderly and people with mobility impairments. It is suggested that sightlines would be restricted at the proposed entrance.

6.2.8. The proposal will give rise to additional traffic movements which will compromise traffic safety on this road. It is suggested that Castilla Park is too narrow a road to accommodate the existing traffic and the proposal would exacerbate these hazardous conditions. As a result of the narrowness of the roadway residents' cars are frequently blocked due to parking on the roadside. Pedestrian movements on Castilla Park are high with the proximity of two schools and Clontarf GAA Club.

6.3. Appeal on behalf of Mrs David and Frances Gorman of 89 Blackheath Park

6.3.1. This appeal argues that the proposed development will impact on the character of No. 91 Blackheath Park and the surrounding area. As such, it is contrary to policy QH22 of the development plan. The appeal goes on to argue that the proposal does not respect and enhance the character of the area and as such is contrary to many statements contained in the development plan and the Guidelines on Sustainable Residential Development in Urban Areas. It is argued that the proposed two-storey dwelling and its impact on the character of both Blackheath Park and Castilla Park would be significantly negative.

6.3.2. The height and massing of the proposed two-storey house would appear obtrusive and overbearing particularly in the context of the adjoining gardens of Nos. 89 and 93 Blackheath Park. It is also stated that the shadow study submitted is of little use as it does not assess the before and after impact. It is also noted that a similar application was lodged at No. 95 Blackheath Park and if approved the cumulative impact would be even more significant. For these reasons the proposed two-storey dwelling is considered to be detrimental to the residential amenity and enjoyment of adjoining properties.

6.3.3. With regard to future occupiers of the house, it is noted that the proposed dwelling does not have any openings on the north, east or west elevations and this results in a poor design for future occupiers. No daylight report has been submitted to

demonstrate that the rooms in the proposed dwellings would have appropriate levels of daylight access. The proposed development appears to cast a significant shadow on the rear garden of the property at No. 91 Blackheath Park. The lack of openings on the north, west and east elevations maybe contrary to Part B of the Building Regulations.

- 6.3.4. Concerns are expressed that the access is not capable of being splayed. This will result in the creation of blind spots for vehicles exiting the site. It will also put pedestrians at risk. It is also noted that up to four times a day Castilla Park is congested with the high volumes of traffic movements associated with schools in the vicinity.
- 6.3.5. The proposal would have an adverse impact on residential amenity through construction impacts. Construction works could lead to common boundary walls along the eastern and western boundary of the site to become unstable due to the works being undertaken. Excavated earth from the site and the construction of a new dwelling will require large trucks and machinery entering and exiting the site. A construction management plan as to how the site will be managed has not been lodged with the application.
- 6.3.6. The proposed development would be sit below the north rear garden of No. 91 Blackheath Park. Surface water flows naturally southwards on this sloping garden and connects with the sewer to the south of the garden and drains onto Castilla Park. No detail of drainage arrangements has been provided in the application. The potential for surface water flood risk should be assessed in more detail.

6.4. **Observations**

- 6.5. One observation was submitted by the residents of No. 93 Blackheath Park which supports the proposed development. It states that the proposal is well suited and sympathetic and in the current housing environment offers an appropriate downsizing solution for the applicants.

7.0 **Appeal Responses**

- 7.1. Dublin City Council have not submitted a response to the grounds of appeal.

- 7.2. Two separate submissions were submitted on behalf of the applicant by Doyle Kent Planning Partnership Limited. The response to both appeals are summarised together below. The response sets out details of the site and the planning policy relating to the site together with the proposed development and the decision of the Planning Authority and the planning history.
- 7.3. It states that the proposed development constitutes an infill of a substantial urban site with which accords with good planning policy. The response quotes various policy statements contained in the National Planning Framework and the Regional Spatial Economic Strategy as well as various policy statements in the development plan all of which support appropriate infill development and the creation of a more compact urban environment which better utilises existing physical and social infrastructure available. The proposed house design achieves the aim set out in Policy QH8 by making good use of vacant or under-utilised infill sites. In terms of visual impact, such an impact will be very slight as the new house would not be readily visible from the public road due to the screening impact of the high boundary wall. The proposed development would have a softening impact on the streetscape by introducing a timber screen into the existing wall. It is also argued that the layout of the private open space is entirely appropriate as it provides a useable but secluded courtyard type garden designed to meet the needs of a small household. The proposal constitutes an innovative solution.
- 7.4. With regard to impact on residential amenity, it is stated that no windows are proposed on the north-east or west side in order to prevent overlooking. Shadow casting diagrams were submitted to the Planning Authority and were acceptable to same. The shadow casting shows that there was some impact on adjoining properties and this is inevitable. However, it is clear from the shadow diagrams that the impact will be limited. The proposal has been designed to ensure that it does not compromise the ability of adjoining owners to develop dwellings of a similar nature should they so wish.
- 7.5. The response states that any future development of No. 95 Blackheath Park has no connection with the current appeal before the Board. In response to concerns about daylight quality, the response includes a report on daylight quality which concludes that the proposed habitable rooms will all meet the criteria set out in the BRE

Guidelines – Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice.

- 7.6. In relation to fire safety issues a separate response is also submitted from Friel Architects and while this is clearly not a planning issue the response concludes that the proposal is fully in compliance with the requirements of Technical Guidance Document B Fire Safety.
- 7.7. It is respectively concluded that any concerns in respect of traffic safety and congestion are very much overstated in the grounds of appeal having regard to the modest trip generation that will arise from a single dwelling. It is stated that Castilla Park is a relatively short residential cul-de-sac carrying low volumes of traffic. Occasional congestion arises from the proximity to school on many roads throughout the City but this should not be regarded as anything more than a nuisance. The proposed vehicular access gate has been increased beyond the standard width to 3.8 metres in order to improve sightlines.
- 7.8. With regard to construction impacts, it is stated that the design team are highly qualified and experienced and the applicant will have no objection for the requirement of a construction management plan if the Board deem it necessary.
- 7.9. With regard to drainage arrangements it is stated that the proposed development will in no way prejudice existing drainage arrangements and proposed SuDS measures have been incorporated into the design.
- 7.10. In a separate submission which specifically addresses the concerns raised in the appeal by Kieran O'Malley and Associates on behalf of the residents of Castilla Park, it is argued that the layout and orientation of private open space is entirely appropriate as it provides a very usable but secluded garden with good levels of amenity and privacy. It is stated that due to the layout and orientation of the site the house will enjoy a far higher level of privacy and amenity than the garden to the rear of the proposed house. The private open space to the south of the proposed house avoids a low-quality open space to the rear (north). The provision of 57 square metres of amenity space (excluded utility areas for car parking and sheds etc.) fully complies with the development plan standards for a two-bedroomed house.
- 7.11. In terms of overshadowing it is stated that the proposed development has no impact in terms of overshadowing on dwellings to the south of the site and Castilla Park.

The shadow diagrams submitted to the Planning Authority are quite sufficient to show that there is no significant impact in respect of overshadowing/sunlight penetration. These diagrams were also accepted by the Planning Authority. The applicants have also submitted a separate report prepared by Chris Shackelton Consulting which establishes that the development complies with the requirements of BRE Guidelines in relation to maintaining skylight availability to neighbours and in relation both annual and winter sunlight availability to neighbours. It is stated that the remaining garden of No. 91 Blackheath Park, after subdivision of the site will received two hours of sunlight over 64.6% of its surface on March 21st and the courtyard space to the front of the dwelling will received two hours sunlight over 67.8% of its surface on March 21st.

- 7.12. Also, a separate report from Cora Consulting Engineers have carried out an auto track analysis which shows that there is no difficulty for vehicles entering or leaving the site of the proposed development. The report also indicates that sightlines of 23 metres are achievable for a 30 kph speed limit (as in the case of Castilla Park) which shows fully that adequate sightlines are available. With regard to traffic generation the same points are reiterated that the proposed development will not result in significant traffic generation on a relatively quite cul-de-sac. The conclusions of both the City Council's Roads Planning Division and the report of the Board's inspector under (PL29N.211962) are referred to. Both these reports consider traffic arrangements to be acceptable.
- 7.13. With regard to the comparison with the previous application, it is stated that there has been a 16-year gap between both applications and during this time national planning policy has changed giving greater priority for the need to develop at increased residential densities.
- 7.14. The response notes that the owner of No. 93 Blackheath Park has submitted an observation to the Board supporting the development. And it is reiterated that the house was designed to minimise impacts on adjoining properties.
- 7.15. Two reports were submitted with this response. A sunlight, daylight and shadow assessment prepared by CSC and a traffic analysis indicating sweep paths for vehicles entering and exiting the proposed entrance and also indicating sightlines at the proposed entrance. This analysis was undertaken by Cora Consulting Engineers.

8.0 Planning Policy

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022.
- 8.2. The site is governed by the zoning objective Z1 to protect, provide and improve residential amenities.
- 8.3. Chapter 5 of the development plan relates to housing.
- 8.4. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands with key locations including regeneration area, vacant sites and underutilised sites.
- 8.5. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 8.6. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 8.7. Policy QH13 seeks to ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Residential Quality Standards and with regard to Lifetime Home Guidance contained in Section 5.2 of the Department of the Environment, Heritage and Local Government “Quality Housing for Sustainable Community – Best Practice Guidelines for Delivering Homes, Sustaining Communities” (2007).
- 8.8. Policy QH21 seeks to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- 8.9. Policy QH22 seeks to ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

- 8.10. Chapter 16 of the development plan sets out further details in relation to site development standards.
- 8.11. Section 16.2.2.2 relates to infill development. It states that it is particularly important that proposed development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.
- 8.12. As such Dublin City Council will seek:
- To ensure that infill development respects and compliments the prevailing scale, architectural quality and degree of uniformity in the surrounding townscape.
- 8.13. Section 16.10.8 relates to backland development. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.
- 8.14. Section 16.10.10 relates to infill housing. It states that having regard to the policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the Planning Authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances the Planning Authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and underutilised land in the inner and outer city is developed.
- 8.15. Infill housing should:
- Have regard to the existing character of the street by paying attention to the established building line, proportion, height, parapets levels and materials of surrounding buildings.
 - Comply with appropriate minimum habitable room sizes.

- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.
- In terms of private open space, the development plan requires a minimum standard of 10 square metres of private open space per bedspace will normally be applied. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the City.

9.0 EIA Screening Determination

Having regard to the nature of the development comprising of a single dwelling in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

10.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in both third party appeals and the applicant's response to these issues. I consider the critical issues in determining the current application and appeal are as follows:

- Principle of Residential Development on the Subject Site
- Private Open Space Provision
- Traffic and Road Safety Issues
- Daylight Penetration to Proposed Dwelling
- Impact on Adjoining Residential Amenity and Character of the Area
- Other Issues

10.1. Principle of Residential Development on the Subject Site

- 10.1.1. The subject site is governed by the Z1 objective in the current Dublin City Development Plan to protect, provide and improve residential amenities. Residential development is of course a permissible use under this land use zoning objective. Furthermore, Policy QH7 and QH8 seek to promote residential development at

sustainable urban densities throughout the city and to promote the sustainable development of vacant or underutilised infill sites and to favourably consider high density proposals which respect the design of the surrounding development. Section 16.10.10 of the development plan sets out the Council Policy specifically in relation to infill sites. It is noted that the Planning Authority seek to make the most sustainable use of land and existing urban infrastructure and therefore will permit infill housing on appropriate sites. This infill housing should comply with all relevant development plan standards. However, in certain limited circumstances, the Planning Authority may relax the normal planning standards in the interests of ensuring that vacant, derelict and underutilised land in the inner and outer city is developed.

- 10.1.2. It is apparent therefore that, subject to qualitative safeguards, Dublin City Council will permit infill housing on appropriate sites within the city.
- 10.1.3. The National Planning Framework likewise emphasises the need to make the most sustainable use of serviced land within existing built up areas which can avail of existing social and physical infrastructure. The framework seeks to promote well-designed high-quality development that can encourage more people and generate more jobs and activity within existing cities. The proposed infill development is in accordance with these general policy objectives.
- 10.1.4. The grounds of appeal emphasise the fact that a similar type development was previously refused on the subject site under Reg. Ref. 29N.211962.
- 10.1.5. The applicant in the response to the grounds of appeal notes that this decision was made c.15 years ago under previous prevailing strategic land use guidelines. Current guidelines and standards emphasise the need for performance based design standards where the application of planning policies and standards need to be more flexible focusing on design led performance based outcomes rather than specifying absolute requirements in all cases. In this regard any application of planning standards should be flexible and assessed in response to well-designed development proposal which can achieve quality urban infill within existing urban areas. With this in mind it is my considered opinion that the Board should not reject the proposal purely on the basis that there is a precedent decision where planning permission was refused on the site for a house of similar size and scale. The current

application should be assessed in the context of contemporary guidelines which seek to promote higher density compact development within its existing urban areas based on performance led design rather than the mere application of rigid development management standards in relation to open space standards and separation distances between windows etc. These issues are explored and evaluated in more detail under the various headings below.

10.2. Private Open Space Provision

- 10.2.1. The grounds of appeal argue that the private open space provided is substandard on the basis that no rear garden is incorporated into the proposal and that the front garden is of little amenity value on the basis that most of it is given over to functional uses such as access and car parking. The private area to the front of the house amounts to almost 100 square metres. Part of this area is given over to car parking, bin storage and sheds etc. However, it is clear from the site layout and landscaping plan submitted as part of the additional information that between 50 and 60 metres of the front garden is provided in the form of recreational open space and can provide a pleasant amenity area for any future occupants of the house. This space is also south-facing.
- 10.2.2. While it is acknowledged that the development plan generally requires in the case of suburban residential development, the provision of an area of private open space behind the building line. As the applicant points out the courtyard area to the front of the house provides a private and secluded area which will provide as much privacy and amenity to the occupants of the house as that associated with a rear garden. The development plan requires that 10 square metres of private open space be provided per bedspace will normally be applied. In this instance where a two-bedroomed dwellinghouse is proposed a minimum standard of 40 square metres would be required. This is readily achieved in the case of the current application and is therefore acceptable in my view particularly as the dwellinghouse is intended to serve a retired couple as indicated in the documentation submitted with the application. The fact that the private amenity open space is exclusively south facing will also provide a more attractive amenity area.
- 10.2.3. With regard to the fact that no rear garden is proposed in this instance having regard to the modest size of the site it would in my view not be possible to provide a rear

garden of any great amenity value whilst at the same time providing off-street car parking to serve the proposed dwelling and maximising separation distances between opposing windows. Furthermore, any private open space to the rear of the dwelling would be exclusively north facing which would in turn limit the amenity value of this space.

10.3. Traffic and Road Safety Issues

- 10.3.1. Having inspected the site and noting that the proposed entrance is located on a concave shaped section of roadway, I consider that the geometric design of Castilla Park lends itself to achieving adequate sightlines in both directions from the proposed entrance. The fact that the site also accesses onto a relatively narrow roadway which ends in a cul-de-sac thereby prohibiting through traffic will also ensure that traffic will travel relatively slowly along the road which will reduce the potential of a traffic hazard. Sightlines are available in my view to facilitate a vehicular entrance at the site in question.
- 10.3.2. Concerns are also expressed in one of the appeals that there will be insufficient and inadequate turning space within the appeal site for a car or cars to enter and exit the site in forward gear. This to me is a rather curious grounds of objection as none of the dwellings along Castilla Park have sufficiently large curtilages to the front of the dwelling which would currently allow for cars to manoeuvre within their curtilage. Cars either reverse into their parking space or reverse out of the parking space onto the public road. The same standards should be applied for vehicles entering and exiting the subject site.
- 10.3.3. With regard to increased traffic generation, I would reiterate that Castilla Park is currently a cul-de-sac and therefore does not accommodate through traffic. The cul-de-sac serves approximately 30 dwellings and therefore trip generation along the road is likely to be modest. It is acknowledged that Castilla Park is used as a drop-off point for schools to the south of the site. However, this on-street parking occurs during limited time periods of the day. The provision of an additional one or perhaps two cars on the subject site would not have any material impact in terms of accentuating or exacerbating traffic congestion along Castilla Park.
- 10.3.4. I note that the planning inspector in the case of the previous application under PL29N.211962 reached a similar conclusion in relation to traffic and I further note

that the Board in its reason for refusal under PL29N.211962 did not rely on road safety or traffic issues in its reason for refusal.

10.4. Daylight Penetration to Proposed Dwelling

10.4.1. Objections were raised in relation to the adequacy of daylighting provision for the internal rooms of the proposed dwelling. The subject dwelling is south facing and incorporates large glazing on its southern elevation. Furthermore, all habitable rooms face southwards. The applicant in this response to the grounds of appeal includes a daylighting assessment prepared by Ronan Pigot. It notes that the overall space achieves a daylight factor of 2.82% while the kitchen achieves 2.03% and the livingroom achieves 3.57%. This is above the recommended levels of 2% and 1.5% respectively. It is acknowledged that the daylight factor is marginally below the recommendation for living rooms of 1.5% (1.42%). However, the bedrooms receive an average daylight factor of 1.4% which is well above the recommendation of 1%. The quality of living accommodation in terms of daylight penetration is in my view generally acceptable and any marginal shortfall in terms of the BRE Recommendations for Livingrooms would not in itself constitute reasonable grounds for refusal. Any refusal solely on these grounds would be disproportionate.

10.5. Impact on Adjoining Residential Amenity and Character of the Area

10.5.1. The grounds of appeal did not raise overlooking as a prominent issue in the grounds of appeal. I note that the north, east and west elevation of the proposed dwelling does not incorporate windows and therefore no overlooking issues will arise on these elevations. Overlooking of the adjoining dwellings to the south on Castilla Park was likewise not raised as a significant issue. I note that the separation distance between the front façade of the proposed dwellinghouse and the facades of Nos. 7 and 8 Castilla Park is in the order of 23 metres which in my view is more than sufficient to ensure that overlooking is not a significant concern.

10.5.2. With regard to the issue of overshadowing the applicants submitted a series of shadow casting diagrams with the original application which depicted the level of overshadowing which would occur as a result of the proposed dwellinghouse. The analysis undertaken was criticised in the grounds of appeal primarily on the basis that the analysis did not indicate the existing level of overshadowing which takes place. On foot of this the applicant in a response to the grounds of appeal submitted

a more comprehensive sunlight, daylight and shadow assessment. This report examined the impact of the proposed development in terms of daylight and sunlight with reference to both *Site Layout Planning for Daylight and Sunlight: A Guide for Good Practice* and *BS:8206 Lighting for Buildings*. A robust and comprehensive and technical analysis was undertaken accompanied by diagrams which assesses the vertical sky component available at adjoining neighbours and the annual sunlight availability to neighbours. It concludes that all tested neighbouring amenity space comfortably pass the BRE Recommendation in that the gardens in question will comfortably exceed the 2 hours of sunlight and the vernal equinox on more than 50% of the surface area as recommended in the Guidelines. It also notes that the remaining garden of No. 91 Blackheath Park, after the subdivision of the site, will likewise receive 2 hours of sunlight over 63% of its surface on the 21st March.

- 10.5.3. There can be no doubt that the insertion of a new building within an existing built-up suburban area will undoubtedly result in increased levels of overshadowing on adjoining plots. The key however in my opinion as to whether or not the increased level of overshadowing would be material and unacceptable relates to whether or not such shadow casting would breach BRE Recommended Guidelines. The applicant in this instance has adequately demonstrated in my view that the proposal would not give rise to increases in shadow casting which would breach the said guidelines. In this regard I consider the proposed dwellinghouse would have an acceptable impact in terms of overshadowing.
- 10.5.4. One of the appellants also argues that the proposed development would have an overbearing impact on adjoining properties. What is proposed in this instance is a modest two-storey dwellinghouse less than 7.5 metres in height. The proposed dwelling is of a similar scale and size to the existing dwellings on Castilla Park and is more modest in scale than the existing houses fronting on Blackheath Park. The proposed dwellinghouse is not located contiguous or indeed in very close proximity to any of the surrounding residential buildings and in this regard, I do not consider that the proposed development will have an unacceptable impact in terms of being overbearing.
- 10.5.5. With regard to the impact on the character of the area, again I would reiterate that what is proposed in this instance is a modest two-storey suburban house which would be located within an area which is characterised by two-storey suburban

residential development. The proposed development therefore is well suited to its surrounding environment and will not adversely affect or change the prevailing suburban residential character of the area.

- 10.5.6. Concerns are expressed that vehicles entering or exiting the subject site will incorporate sweep paths requiring vehicles to cross onto the opposite side of the road in order to negotiate the entrance. The applicant in a response to the grounds of appeal has provided details of a sweep path analysis for vehicle entry/exit in both forward and reverse gear. It appears that any vehicle entering or exiting the site will stay within the confines of the carriageway as per any typical vehicle manoeuvring in and out of an off-street car parking space on a suburban local road.

10.6. **Other Issues**

Construction Impacts

- 10.6.1. Concerns were expressed that construction impacts arising from the proposed development would be unacceptable having regard to the proximity of residential dwellings and the width of the roadway serving the development. Construction impacts arising from building works associated with a modest two-storey dwelling are not anticipated to be so significant as to warrant a reason for refusal. Any construction impacts will be temporary in nature and will be carried out in accordance with best practice having regard to the fact that the applicants state that the design team for the proposed house are highly qualified and very experienced. If the Board consider it appropriate, it can request that a construction management plan be submitted to the planning authority for agreement prior to the commencement of development.

Fire Safety

- 10.6.2. The issue of compliance with fire safety requirements under the Building Regulations is not a planning matter. The applicants are required to fully comply with the requirements of the Building Regulations should the Board consider it appropriate to grant planning permission. I do note however the letter on file from the applicants' architect which state that the house design is fully in accordance with the Building Regulations and in particular Technical Guidance Document B – Fire Safety.

Drainage and Flooding Issues

The applicants' response to the grounds of appeal states that the existing drainage arrangements will not be prejudiced by the proposed development and appropriate SuDS measures have been incorporated into the design. I further note that the Drainage Department of Dublin City Council had no objection to the proposed development and that a preliminary flood risk assessment was undertaken by the applicant and referred to in the planning report submitted with the application.

Tree Removal

The removal of any trees associated with the existing rear garden are not a major matter of concern and should not in itself constitute reasonable grounds for refusal having regard to national and local land use policy which seeks to increase residential densities in urban locations as referred to above. Any removal of mature or semi-mature trees within the garden can be compensated by the implementation of an appropriate landscaping scheme as part of the proposal.

Structural Integrity of Adjoining Walls

There is no evidence to suggest that the proposed development would in any way destabilise boundary walls of adjoining sites. It is not unusual for buildings to be constructed contiguous to existing boundary walls and appropriate construction methods can be implemented to ensure that the integrity of adjoining boundary walls are maintained. If the Board considers it appropriate, it can include by way of condition, a requirement for the applicant to submit a construction management plan prior to the commencement of development.

11.0 Conclusions and Recommendation

Arising from my assessment above I consider the proposed development to be acceptable and in accordance with the proper planning and sustainable development of the area and I therefore recommend that the Board uphold the decision of the planning authority and grant planning permission for the proposed development based on the reasons and considerations set out below.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment, together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

13.0 Reasons and Considerations

Having regard to the scale, configuration and design of the proposed development and the pattern of development in the surrounding suburban residential area, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area or character of the streetscape and would be acceptable in terms of traffic safety and convenience. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted to the planning authority on the 3rd day of March, 2020, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to and agreed in writing with the

planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. The footpath shall be dished in accordance with the requirements of the planning authority.

Reason: In the interest of pedestrian safety.

4. Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of clarity.

6. The following requirements of the Transportation Planning Division shall be complied with:

- (a) Pedestrian and driveway entrance shall not have outward opening gates.
- (b) All costs incurred by Dublin City Council including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.
- (c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: To ensure a satisfactory standard of development.

7. Prior to the commencement of development, the applicant shall submit a construction management plan for the written agreement of the planning authority.

Reason: In the interest of orderly development.

8. 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.

Reason: 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.

Paul Caprani,
Senior Planning Inspector.

5th October, 2020.