

# Inspector's Report PL06S.248229

**Development** Construction of 7 dwellings, including

subdivision of Protected Structure, car

parking, demolition of sheds,

extension construction, boundary

realignment, access roads &

associated site works.

**Location** Whitechurch Lodge, Rathfarnham,

Dublin 14

Planning Authority South Dublin County Council

Planning Authority Reg. Ref. SD16A/0445

Applicant(s) Heatherbrook Homes WCL Ltd.

Type of Application Permission

Planning Authority Decision Split Decision

Type of Appeal First Party

Appellant(s) Heatherbrook WCL Ltd.

Observer(s) An Taisce

**Date of Site Inspection** 7<sup>th</sup> of July 2017

**Inspector** Angela Brereton

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# 1.0 Site Location and Description

- 1.1.1. The subject site is located in Rathfarnham, the eastern boundary of the site having frontage to the Whitechurch Road. This road forms the western boundary of Grange Golf Club, which itself forms the western boundary to Marley Park. There is a roundabout serving Grangebrook Housing Estate to the north and the site is approx 0.5m north of the M50 motorway. The area of the site is outside the more built up estate type development to the north and appears semi-rural.
- 1.1.2. The site is located within the grounds and gardens of Whitechurch Lodge which is a Protected Structure built c.1820 with subsequent later more modern extensions and interventions. The lodge is proximate to the eastern part of the site and Whitechurch Road. The attendant grounds include the overgrown former tennis court area to the south of the lodge and sheds proposed for demolition. The topography of the site falls away from the lodge towards the Glin River, which bisects the site, meaning the greater portion of the site lies to the east of the river. There are two bridges across the river on the northern portion of the site. One is a pedestrian bridge and the other closer to the northern end is more substantial. The site is well landscaped with trees and shrubs. A high rubble stone wall defines the boundary with Whitechurch Road.
- 1.1.3. The existing entrance to the site is via the northern gated access from the Whitechurch Road. The access to the road is shared with the junction of narrow laneway to the ancient burial ground to the north, the latter is to the Whitechurch graveyard and old church (RPS.334). This access lane also serves one private residence to the north west. Whitechurch Road is a busy narrow route with a footpath along the western side (the side of the site) and a single white line along the centre. The road is undulating and there is a bend to the north and the south of the permitted access (SD15A/0211 refers). The site is within the urban speed limits.

# 2.0 Proposed Development

2.1.1. Heatherbrook Homes WCL Ltd have made an application for Phase 2 of development of the lands at Whitechurch Lodge, Whitechurch Road, Rathfarnham. (A Protected Structure RPS No.338). It is of note that Phase 1 for 7 detached houses, site entrance and associated site works was granted permission by SDCC on the 11<sup>th</sup> of April 2016 – Reg.Ref.SD15A/0211 refers.

## 2.1.2. The current proposal comprises the following:

- 1. Construction of a new 2-storey dwelling house (242sq.m) located to the west of the P.S with 2 no. car parking spaces.
- 2. Construction of 4no. new 2 storey terraced houses (147sq.m each) to the north of the P.S with 2no. car parking spaces each.
- 3. Subdivision of Whitechurch Lodge (P.S) to provide 2no. 4 bedroom dwelling houses (240sq.m and 244sq.m) with 3&2 no. car parking spaces respectively.

Works to Whitechurch Lodge to include:

- Demolition of single storey sheds/outhouses along the eastern boundary and
   2 storey 1970s extension to the north and 2-storey return to the east,
- Construction of new 2-storey extension (47.95sq.m) to the north and forming part of House 2,
- General refurbishment and decorative works,
- Insulation to attic spaces and replacement of all existing ceilings,
- Installation of Calsitherm wall lining system to all external walls,
- Replacement of existing ground floor (concrete) with new insulated concrete slab, upgrade of existing suspended timber first floor as necessary,
- Removal of some internal walls/partitions, sanitary, modern fixtures and fittings, modern fire surrounds and passenger lift and provision of new stud partitions to allow for new bathrooms and kitchens,
- Repairs to internal joinery and staircases,
- Removal of existing cementitious pebble-dash and render and replacement with lime plaster,
- Replacement of existing windows with new hardwood double glazed sliding sash to match existing and new hardwood external doors,

- Provision of new double doors (2 pairs) in lieu of existing windows to east elevation,
- Repairs to existing roof and removal of part of the existing slate roof, raising the external wall and suspended timber first floor, and relocation of bedroom window ope. all to the north eastern corner of the existing structure,
- Installation of 3no. conservation roof lights to inner slope of main roof and repairs to/replacement of existing rain water goods,
- Installation of modern drainage, plumbing and heating systems, complete rewiring.
- 4. Site development works to include realignment of site boundary at northeast corner of the site, access roads, landscaping, bin store adjacent to entrance, lighting and safety railing to existing bridge.

The Planning Application form provides that the site area is 0.659ha. The g.f.s of the existing house is 490sq.m, of shed A is 100sq.m and shed B is 288sq.m i.e. 618.8sq.m.

The g.f.s of the proposed works is 1,312sq.m (residential) and of works to be retained is 437.54sq.m. Buildings to be demolished comprise 181.27sq.m.

5no. 3 bed houses and 2no. 4 bed houses are to be provided comprising a total of 7no. houses. There are 4 existing parking spaces and a total of 15 are to be provided.

DK Planning & Architecture have submitted documentation with the application which includes the following:

- Planning Report prepared by Doyle Kent Planning Partnership Ltd;
- Conservation Method, Design Statement and Strategy OCOR Architects;
- Photographic Record OCOR Architects;
- Schedule of Rooms OCOR Architects;
- Landscape Report Ait Urbanism and Landscape;
- Appropriate Assessment Screening Report Scott Cawley;
- Ecological Impact Statement Scott Cawley;

- Archaeological Assessment Report ACS Archaeologist Consultancy Services;
- Construction Management Plan OCM Consultancy;
- C&D Waste Management Plan OCM Consultancy;
- Arborist Report CMK Arboriculture;
- Flood Risk Assessment Molony Millar Consulting Engineers;
- Engineering Services Report Molony Millar Consulting Engineers;
- Part 5 compliance letter Heatherbrook Homes WCL Ltd;
- Copies of all schedules, maps and drawings.

# 3.0 Planning Authority Decision

#### 3.1. **Decision**

On the 21<sup>st</sup> of February 2017, South Dublin County Council, decided on a split decision i.e they granted permission for the sub-division of Whitechurch Lodge into 2 residential units subject to 10no. conditions. These relate to infrastructural and construction and demolition related issues including regard to development contributions. The following are of note relevant to design and layout:

- Condition no.2 provides that the conditions where relevant of Reg.Ref. SD15A/0211 shall apply.
- Condition no.3 provides for some amendments to the proposed design.
- Condition no. 4 has regard to tree protection and landscaping.
- Condition no.5 provides that each proposed residential unit shall be used as a single dwelling.

The Council refused permission for 4 terrace dwellings for 3no. reasons which are summarised as follows:

Proposed dwelling no.7 including its proposed access road, which
necessitates the crossing of the River Glin, is in an area at risk of flooding and
would therefore be contrary to the proper planning and development of the
area.

- 2. The proposed development would contravene materially Policy 3 'Protected Structures' and Objectives HCL3-1 and HCL3-2 of the SDCDP 2016-2022 having regard to impact on the curtilage and character of a P.S. It would be detrimental to visual amenity and the integrity of the site and would represent an overdevelopment of the subject site.
- 3. The site is located alongside and straddles the River Glin, which is an important recruitment and nursery channel for Salmonids in the Dodder system. The proposal is deficient in green infrastructure and the engineering solutions proposed would materially contravene objectives (G2-5, G2-9, G3-3, G3-5,G4-2, G4-4, G5-1, G6-1) of the SDCCDP 2016-2022.
- 4. The proposed development would contravene materially Condition 1 of Reg.Ref. SD15A/0211, which sought to limit development on the overall site of a P.S by ensuring the removal of dwellings from similar locations to the sites of the proposed dwellings nos. 3-7 and would therefore be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

## 3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. They considered that the proposed development of dwelling nos. 3-6 would materially contravene the zoning objective of the site (to protect and/or improve Residential Amenity) and should therefore be refused. They also considered the proposed development would have a negative impact on the P.S and its setting and the visual impact of these proposed houses would be detrimental to the amenities of the area even if Whitechurch Lodge were not a P.S. They considered this would lead to a crammed form of development and recommended they be refused.

They recommend that for reasons of substandard development and flooding that house no.7 be refused.

They had regard to the concerns of the Environmental Services Department relative to surface water and flooding and note this Section recommended refusal.

Therefore, in this case, the Planner recommended a split decision. They concluded that the subdivision into 2 residential units of Whitechurch Lodge, which is a P.S (RPS no.338) is generally acceptable and should be granted permission. They recommended that the remainder of the proposed development be refused for reasons relative to potential flooding, impact on the integrity, character and setting of a P.S, deficiencies in residential amenity and in green infrastructure, would contravene materially condition no.1 of the planning permission SD15A/0211.

#### 3.3. Other Technical Reports

## 3.3.1. Water Services Planning Report

They have no objection subject to recommended conditions.

#### 3.3.2. The Environmental Services Department

The Planner's Report notes that they recommend refusal having regard to surface water drainage and flooding issues. It is of note that this appears to have been a verbal report and there is no written record from the relevant department on file.

## 3.3.3. Environment, Water & Climate Change

It is provided that the planning application is considered acceptable to the Enforcement and Licensing Division of the Environmental Services Department subject to recommended conditions including relative to construction and demolition waste.

## 3.3.4. Housing Department

They recommend that a Part V permission be attached to any permission. They note that this condition would apply to the overall site as Reg.Ref.SD15A/0211 taken together with this current application would result in an overall no. of units on the site being in excess of 9 resulting in a Part V yield of 10% of the overall development.

# 3.3.5. Environmental Health

They have no objections subject to recommended conditions relative to construction phase.

#### 3.3.6. Roads Department

They note that applicant proposes to utilise the entrance granted under the previous permission Reg.Ref. SD15A/0211 and this along with the internal layout is acceptable to roads. They request further information on the existing/proposed bridge within the site.

#### 3.4. Prescribed Bodies

#### 3.4.1. An Taisce

They consider that the P.S should be kept as a single residence but if divided into two houses should have more usable private open space. They do not agree that the area down to the roadway should be communal open space as it would mean that the public would come very close to the main windows of the P.S. The omission of this part of the communal open space still leaves sufficient public space to the West of the roadway. They object to the 4no. houses to the north of the P.S as would crowd it too much.

#### 3.4.2. Inland Fisheries Ireland

They note that the Whitechurch stream which traverses the site is an important recruitment and nursery channel for Salmonids in the Dodder system. They have no objection and recommended a number of mitigation measures, but urge caution in respect of any development on floodplain lands.

## 3.4.3. Irish Water

They have no objection subject to recommended conditions. This includes that condition no.2 as per the previous planning permission SD15A/0211 shall apply.

## 3.5. Third Party Observations

Glendoher & District Residents Association object to the proposed development to include the following:

- It is contrary to sustainable development and principles of proper planning.
- It is contrary to the SDCCDP including its objectives and policies.

- They consider full records of pre-planning meetings should be provided for transparency.
- The proposed units 3-6 and unit 7 should be omitted from the proposal for similar reasons to the previous permission (SD15A/0211). They are visually disruptive to the character and dominance of the P.S. The setting of units 3-6 creates an unattractive large block in one corner of the site.
- Whitechurch Lodge needs to be afforded the legal protection that is expected for a P.S with its curtilage, setting and character.
- The proposal to subdivide Whitelchurch Lodge removes the public's appreciation at this prominent location with views from Whitechurch Road.
- The proposal represents a poor standard of piecemeal development and is an example of unsustainable development.
- They are concerned that there is no agreement with SDCC that Phase 2 can be constructed prior to Phase 1. They also note there may be a Phase 3 of the development.
- They are concerned having regard to the locational context of the site about the impact on Heritage and on Conservation.
- There are concerned that there will be adverse impacts for the ecology in the area and consider a more sensitive ecologically orientated layout and design should be submitted.
- They have significant concerns about the Landscape Plan and query why
  policies pertaining to the creation of a Green Infrastructure onsite have been
  ignored. Also concerns regarding loss of mature trees.
- They have concerns about flooding in the area of the River Glin, consider culverting should be avoided and that the proposed mitigation measures to protect the River during construction phase are inadequate.
- They are concerned about the impact of the removal of sections of the protected boundary wall and consider that a more sensitive design and layout should be submitted.

- They query adequate turn around space for fire engines and refuse trucks for Whitechurch Lodge.
- At no stage should the development become a gated community with electronic gates.
- They seek clarity relative to usability of public open space and children's play area.
- They are concerned that if adequate guest parking is not provided on site that there will be spillage onto Whitechurch Road.
- They are concerned about the approach relative to provision of social housing and Part V obligations having regard to the previous and current applications.

# 4.0 Planning History

## 4.1.1. The following is the relevant planning history:

Reg.Ref.SD15A/0211 – An application was made to the Council for four 2 storey detached houses with dormer windows to the front and rear and five detached houses ranging in size from 293sq.m to 193sq.m all with stand-alone garden sheds. The development included closing up the existing entrance to Whitechurch Lodge, provision of a new access to serve Whitechurch Lodge and houses 1-8 and the creation of a new access onto the adjoining public road - 'Whitechurch Burial Ground Road' to serve house no.9; demolition of derelict garden sheds within the site curtilage; new boundary treatments including the provision of a new boundary around the curtilage of Whitechurch Lodge. No other works were proposed to Whitechurch Lodge (P.S) or it's outbuildings. The development also included associated site development works, landscaping and associated service provision.

Subsequent to amendments at Further Information stage permission was granted by the Council subject to conditions for seven 2 storey detached houses, the closing up of the existing entrance to Whitechurch Lodge, the provision of a new access to serve Whitechurch Lodge and the seven detached houses, site development works, landscaping and associated site services all within the curtilage of the Whitechurch Lodge, a Protected Structure.

# 5.0 Policy Context

## 5.1. South Dublin County Council Development Plan 2016-2022

5.1.1. This is the pertinent plan and has many policies and objectives which relate to the proposed development. The following include those referred to in the Council's reasons for refusal:

#### **Heritage**

Section 9.1.0 concerns the Built Heritage and Architectural Conservation. Section 9.1.1 Policy 2 contains the Objectives relative to Archaeological Heritage and Section 9.1.2 contains Policy 3 which provides the Objectives relative to Protected Structures. The following are referred to in the Council's second reason for refusal: HCL3 Objective 1:

To ensure the protection of all structures (or parts of structures) and the immediate surroundings including the curtilage and attendant grounds of structures contained in the Record of Protected Structures.

## HCL3 Objective 2:

To ensure that all development proposals that affect a Protected Structure and its setting including proposals to extend, alter or refurbish any Protected Structure are sympathetic to its special character and integrity and are appropriate in terms of architectural treatment, character, scale and form. All such proposals shall be consistent with the Architectural Heritage Guidelines for Planning Authorities, DAHG (2011) including the principles of conservation.

Schedule 2 contains the Record of Protected Structures.

#### Green Infrastructure

Chapter 8 contains the policies and objectives relative to the sustainable approach to Green Infrastructure. A number of such are referred to in the Council's third reason for refusal. These are detailed as follows:

G2 Objective 5 - To integrate Green Infrastructure as an essential component of all new developments.

- G2 Objective 9 To preserve, protect and augment trees, groups of trees, woodlands and hedgerows within the County by increasing tree canopy coverage using locally native species and by incorporating them within design proposals and supporting their integration into the Green Infrastructure network.
- G3 Objective 3 To ensure the protection, improvement or restoration of riverine floodplains and to promote strategic measures to accommodate flooding at appropriate locations, to protect ground and surface water quality and build resilience to climate change.
- G3 Objective 5 To restrict the encroachment of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to: the prevention of pollution of the watercourse, the protection of the river bank from erosion, the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development.
- G4 Objective 2 To connect parks and areas of open space with ecological and recreational corridors to aid the movement of biodiversity and people and to strengthen the overall Green Infrastructure network.
- G4 Objective 4 To minimise the environmental impact of external lighting at sensitive locations within the Green Infrastructure network to achieve a sustainable balance between the recreational needs of an area, the safety of walking and cycling routes and the protection of light sensitive species such as bats.
- G5 Objective 1- To promote and support the development of Sustainable Urban Drainage Systems (SUDS) at a local, district and county level and to maximise the amenity and biodiversity value of these systems.
- G6 Objective 1 To protect and enhance existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design process.

## 5.2. Architectural Heritage Protection Guidelines for Planning Authorities

These are of relevance and were issued by the DoEHLG in 2004/2011 –

Section 1.3.1 (f) provides: Where a structure is protected, the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their interiors) and all fixtures and features which form part of the interior or exterior of all these structures. All works which would materially affect the character of a protected structure, or a proposed protected structure, will require planning permission.

Section 2.2.2 refers to a P.S and land within its curtilage. S.2.9.1(c) relates to whether the curtilage of a P.S has been determined.

Chapter 6 provides policies and objectives for Development Control, which seek to ensure the protection of the architectural heritage so that these structures retain their character and special interest and continue to contribute to the social and economic mix of the area. This also relates to the sensitivity of works within the curtilage of protected structures and attendant grounds and/or ACAs.

Chapter 13 deals specifically with the Curtilage and Its Attendant Grounds.

Section 13.5.1 provides: *Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure.* 

Section 13.7.1 provides: It is essential to understand the character of a site before development proposals can be considered. Section 13.7.2 has regard to the issues to be considered including: (a) Would the development affect the character of the protected structure? (b) Would the proposed works affect the relationship of the protected structure to its surroundings and attendant grounds?

Section 13.7.7 refers to carparking and provides: Careful consideration should be given to the location of the car park to avoid damage to the character of the structure or its attendant grounds.

Section 13.8.3 provides: Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.

# 6.0 **The Appeal**

## 6.1. **Grounds of Appeal**

- 6.1.1. Doyle Kent Planning Partnership Ltd have submitted a First Party appeal on behalf of the applicant Heatherbrook Homes WCL Ltd, against the Council's decisions to refuse permission for five houses. They also wish to appeal the Council's Condition no.3(i)(b) which is included relative to their decision to grant permission for the subdivision of Whitechurch Lodge. They note the locational context of the site, planning history and policy. They have regard to the previous permission SD15A/0211 granted by the Council for Phase 1 of the development of the site. The current application is for Phase 2 and is informed by the detailed Conservation Report and Landscape Plan.
- 6.1.2. They wish to point out that their client and the design team have endeavoured at all times to engage with the planning authority since the interception of this project and consider that conflicting advice has been given in relation to the redevelopment of this site. It was never anticipated that the planning authority would refuse outright any further development of the site. They ask the Board to review all the documentation submitted.

They have regard to each of the Council's reasons for refusal and include their response relative to the grounds of appeal.

#### Reason no.1 – River Glin and Flood Risk

- They refer the Board to the detailed site specific Flood Risk Assessment carried out and to the report from Molony Millar. House no.7 is not within the 100year flood zone. They plan to reuse the existing bridge across the River Glin, within the Whitechuch Lodge grounds. While the design team did explore the concept of a new access from Cemetery road, the existing bridge is capable of accommodating one house. They note that as shown on the drawings the floor level of the house is above the 100year flood zone.
- House no.7 has a considerable area of private amenity space. Cutting into the landscape at the south western corner is very modest.

## Reason no.2 - Material Contravention of Planning Policies - Conservation

- They do not accept that the development on lands zoned for residential use would materially contravene Policy 3 'Protected Structures' and Objectives HCL3-1 and HCL3-2 of the SDCCDP.
- They refer to the Conservation Report and note that the house is in a poor state of repair and has had some modern inappropriate interventions and alterations over the years. Also that there are limited views of the house from the public road that runs close to the eastern boundary.
- The significant views of the P.S are from within the site and across the river and are not from the public road. The proposed new residential development has been designed to be fully cognisant of the sites distinctive features and ensure they are preserved.
- It is proposed that Whitechurch Lodge be extensively refurbished and subdivided into two family dwellings. In summary, the existing dwelling will be restored to its historically appropriate condition removing many later 20<sup>th</sup> century interventions.
- They consider that the contemporary design of the courtyard development will be subservient to the main dwelling (P.S).
- They note that the development strategy as set out in the H.H. Conservation Report, for the protection of Whitechurch Lodge and its relationship to its gardens, proposed three distinct areas for development and provide details of these. They refer the Board to the detailed Conservation Report submitted.
- They note the concept of the new road within the site and refer the Board to the detailed landscape drawings prepared by ÁIT Urbanism and Landscape Architects in relation to how the proposed development will enhance the P.S.
- The four new terraced houses are now shown moved further away from the P.S (i.e. 20m from the side elevation of the main wing of the P.S). They provide that the design has been informed by the Council's Conservation Officer. It entails the provision of additional accommodation on site, which is both contemporary and will be subservient to the P.S.

- A 2m high stone wall will separate the parking courtyard for the new houses from the private garden and carparking serving no.2 Whitechurch Lodge (i.e the subdivided existing house).
- The proposed contemporary design is an appropriate solution, allows for increased density on the site in line with National, Regional and Local Government policy and does not comprise the setting of the P.S. They list a number of reasons as to how this is sensitive and sustainable development.
- They do not consider that the low density of the proposed development would compromise the visual amenity of the area, the unique setting of the P.S, in particular the view from Whitechurch Road, and would not constitute an overdevelopment of the site.
- They refer the Board to the photographs of views submitted in this regard.
   They attach CGIs in support that the proposed development would not impact adversely on the setting of the P.S. They also refer to the Architectural Response to the reasons for refusal from OCOR Architects in support of the development.
- They note that the project achieves a high quality of design based on qualitative standards. They conclude relative to Reason no.2 that the principle of residential development is acceptable on these lands, subject to the protection of the character and setting of Whitechurch Lodge and the preservation and improvement of existing amenities of the area.
- The provision of a mixture of well designed, sensitively scaled houses and the restoration of the Lodge would maintain its unique setting, while providing for a sustainable use for the overall site.

#### Reason no.3 Impact on the River Glin and Green Infrastructure

 They note the importance of the River Glin as a feature that adds to the landscape of the site. Reason no.3 refers to the deficiency in Green Infrastructure methods and highlights a number of policies in the Development Plan, which it is stated the proposed development contravenes. The Design Team have examined in detail the policies and objectives of the plan and they

- refer the Board to the detailed reports supporting the appeal from Molony Millar, Áit Urbanism and Landscape and Scott Cawley in this regard.
- Potential interference arising from any proposed development on the
  ecological value of the appeal lands has been carefully considered and
  addressed. These reports set out in detail the mitigation measures and the
  soft engineering solutions proposed on the site to protect the river corridor.
  They note Fisheries did not object to the proposed development but set out
  conditions to be included in any grant of permission.
- The proposed development respects the requirements of the SDCCDP and would not adversely impact on the river corridor, having regard to potential mitigation measures, including in relation to the construction phase.
- They provide a response relative to each of the Objectives referred to in the Council's third reason for refusal having regard to Green Infrastructure.
- They note that the proposed new residential development has been designed to be fully cognisant of the site's distinctive features and Green Infrastructure and will ensure that they are preserved. They have engaged a professional design team to advise on the various aspects of the project to ensure a highly sustainable development. They refute the P.A position that the development would contravene in any way the objectives of the Development Plan in relation to Green Infrastructural methods.

# Reason no. 4 – Material Contravention of Condition no.1 of Reg.Ref. SD15A/0211

• They do not accept that the proposed development materially contravenes this condition. The reason did not state that development would not be permitted in perpetuity. The proposed design of Houses 3-7 is more sensitively sited and appropriately scaled and is informed as part of the F.I and the Conservation Report. The current layout and design for smaller houses have been informed by the previous request to remove 2no. houses.

#### Condition no.3(i)(b) of the Council's Decision to Grant Permission

 Having regard to their overall appeal submission the inclusion of this condition is not appropriate and goes well beyond what might be deemed necessary, reasonable or relevant to the development being permitted. It conflicts with the Development Management Guidelines 2007 (section 7.7), relevant to appropriate type conditions.

## Other Considerations

- They have regard to pre-planning consultations carried out and consider the reasons for refusal are not consistent.
- They have regard to other departmental reports including the Environmental Services Report and consider that some of the drawings have been misinterpreted having regard to the sections showing the River Glin relative to floor levels of proposed house no.7 and Flood Management.

#### Conclusion

They provide that the proposal seeks to restore and refurbish the existing Whitechurch Lodge and would not impact on the character and setting of the P.S. It would not be injurious to the amenities of the area and would accord with the proper planning and development of the area. The refer the Board to the CGIs enclosed with the appeal which show the impact of the development on the overall site and on Whitechurch Road. The proposal complies with planning policies and objectives and will provide a much needed densification of the site. They consider that the proposal is in keeping with the context of the site and is consistent with the proper planning and sustainable development of the area.

It is of note that in support of this Appeal separate responses are included from Ait Urbanism & Landscape and an Architectural Response prepared by a Conservation Architect Grade III on behalf of O Carroll O Riordan Architects, have been submitted. Molony Millar Engineers, have provided further details in relation to drainage and flooding and further details have also been submitted on Green Infrastructure. Scott Crawley have also provided a rebuttal of the reasons for refusal.

## 6.2. Planning Authority Response

The Council's response to this appeal provides that the Planning Authority confirms its decision. The issues raised in the appeal have been covered in the planner's report.

#### 6.3. **Observations**

An Taisce supports South Dublin County Council in their refusal to grant permission for five new houses in this application. However, they wish to point out that the private open space for each of the two parts of the subdivided Protected Structure is much too small. They consider that the open space for each part should extend out at least as far as the new driveway to the west.

#### 7.0 **Assessment**

## 7.1. Principle of Development and Planning Policy

- 7.1.1. Map no.10 of the South Dublin County Development Plan shows that the site is within the residential land use zoning where the 'RES' objective is: 'To protect and/or improve residential amenity'. The current application is for the development of Phase 2 at Whitechurch Lodge a Protected Structure. In the original application SD15A/0211, the Council granted permission subject to conditions for 7no. houses to the south of the P.S within the grounds of Whitechurch Lodge former tennis court. Therefore, it is considered that the principle of residential development has been accepted on the southern part this site.
- 7.1.2. The First Party contend that the contemporary design proposed in Phase 2 of the development is an appropriately scaled architectural solution to the challenge of providing additional density on this prime residential development site (a key policy of National, Regional and Local Government). They consider that the proposal will not lead to an overdevelopment of the site and that the additional development is subservient in particular the terrace of 4no. smaller houses proposed in the courtyard area and this along with house no.7 which provides more of a focal point on the opposite side of the river, does not compromise the visual amenity and setting of the Protected Structure but provides for sensitive sustainable development of the site.
- 7.1.3. They provide a detailed response to each of the reasons for refusal, which is considered further in the context of this Assessment below. While the principle of development has been accepted on the southern part of the site in the previous permission, the issue is whether the current proposal is acceptable on the northern

part of the site having regard to its impact on the P.S and its attendant grounds, green infrastructure and the residential amenities of the area.

## 7.2. Regard to Planning History and Development Strategy

- 7.2.1. The proposed development provides for a second phase of development at Whitechurch Lodge. The original application SD15A/0211 proposed 9 family homes on this fully serviced site, in an area zoned for residential development. While the Planning Authority accepted the principle of residential development on the site, considerations were raised in relation to the design and impact of the two houses then proposed to the north and west of Whitechurch Lodge. This resulted in these two dwellings (no.8 and 9) being omitted as part of the F.I. request and 7 houses being permitted (as shown on the revised plans submitted on the 9<sup>th</sup> of February 2016 Condition no.1 refers). The First Party provide that it was further agreed that the then landscape proposal for the area in front of the 7no. detached houses should be amended to accommodate the long term proposal of reinstating the original historic layout, along the lines of the layout proposed in the Howley Hayes Architects Conservation Report.
- 7.2.2. As set out in this Conservation Report and Outline Development Strategy, the development strategy for the P.S Whitechurch Lodge and its relationship to the gardens proposed three distinct areas for development. These are:
  - (i) The area to the south of the existing house on the former tennis court, as granted permission for 7no. houses as per Reg.Ref. SD15A/0211, which permission also included reinstatement of the original entrance location to the south of Whitechurch Lodge.
  - (ii) The Service Yard site to the north of the existing house and including the sub-division of Whitechurch Lodge into two houses. The new access road permitted under SD15A/0211 would extend northwards, following the site contours, to serve communal parking for the new service yard houses. The new road would be lower than the lawn in front of Whitechurch Lodge and be separated from it by a low ha-ha and suitable planting, to partially conceal cars.
  - (iii) The site to the west side of the river, served by the existing bridge.

The Conservation Report outlines the manner in which the site could accommodate a phased approach with each of the three zones i.e:

- Construct a line of detached family houses to the south of the property in the area formerly occupied by the tennis court, (SD15A/0211 refers).
- Construct a low scale, half courtyard development in the spirit and location of the former service buildings to the north of the house – the terrace of four houses now proposed refers.
- Construct a single detached house on the western edge of the site, to provide an eyecatcher from the main house viewed across the valley of the stream that would provide tacit surveillance of the pathways through the communal garden – house no.7 now proposed refers.

The detailed Conservation Report produced by Howley Hayes Architects informed the design strategy for Phase 2 at Whitechurch Lodge and formed as part of the planning application and development strategy for the site.

#### 7.3. Material Contravention

- 7.3.1. The Council's reasons for refusal refer to material contravention, which is refuted by the First Party. Regard is had to Planning and Development Act 2000 (as amended) and to the particular circumstances where a material contravention would apply. Section 34(6) sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc, where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.3.2. In this instance the proposed development is clearly not of strategic or national importance. There is no policy or guidelines or such pattern of development in the area advising that such a development should be permitted on this site. However, the site is on residentially zoned land and is within the grounds of a P.S and

- therefore the relevant Conservation/Heritage Policies apply. The First Party contend that the proposed new buildings do not impinge materially on the setting of Whitechurch Lodge or Whitechurch Road nor would be in contravention of these conservation policies.
- 7.3.3. Regard is had to Conservation Policy 3 Protected Structures. The Council's second reason for refusal refers to material contravention of policies HCL3-1 and HCL3-2. It is noted that the First Party provides that the proposed development will be subservient in height to the existing P.S. Also that the proposed terrace of 4 is in a different location to proposed house no.8. Regard is had to these issues in the Design and Layout Section below, where it is considered that some modifications maybe necessary to the proposed development to reduce the impact on the setting of the P. S. so as not to conflict with these policies.
- 7.3.4. Reason no.3 of the Board's decision in concerned that the proposed development would contravene materially CDP policies and objectives G2-5, G2-9, G3-5, G4.2, G4-4, G5-1, G6-1 (as quoted in the Policy Section above). These concern the potential impact on the Green Infrastructure network. This includes the loss of trees within the grounds of the P.S, impact on watercourses and wildlife corridors, protection from light spill in sensitive locations. Regard is also had to the promotion of SUDs to maximise the amenity and biodiversity value of these systems. G6-1 encapsulates much of the aims of these green objectives i.e: To protect and enhance existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new development as an essential part of the design process.
- 7.3.5. It is of noted that the Council's fourth reason for refusal is concerned that the proposed development would materially contravene Condition no.1 of the Council's permission relative to SD15A/0211. This includes the omissions of house nos. 8 and 9 shown on the original plans then submitted. Regard is had to the revised Site Layout Plan then submitted on the 9<sup>th</sup> of February 2016. It is of note that house no. 9 is in a relatively similar position to house no.7 shown on the current plans. Having regard to the issues discussed the Board may decide to modify or omit this house as put forward in the design and layout section below.
- 7.3.6. Therefore, while not considered to be in material contravention, the issue is whether the proposed development in the attendant grounds of Whitechurch Lodge would be

detrimental to the visual appearance of the P.S. There is a need to ensure that the proposed development would comply particularly with policies and objectives relative to the protection of residential amenity, conservation and built heritage and green infrastructure. This is discussed further below.

## 7.4. Regard to Condition 3(i)(b) of Reg.Ref.SD16A/0445

- 7.4.1. Condition no.3 provides that no development shall take place under this permission until the applicant, owner or developer has lodged a number of details with the Planning Authority including as per 3(i)(b): Area of site of dwellings 3-6, including internal street network and car parking associated with these dwellings, incorporated within the curtilage of House 2.
- 7.4.2. The First Party consider that this condition is inappropriate in view of their appeal. Also that it goes beyond what is deemed necessary, reasonable or necessary and therefore conflicts with Section 7.7 of the Development Management Guidelines for Planning Authorities, 2007. This Section concerns Conditions directly departing from the application. This includes: A condition that radically alters the nature of the development to which the application relates will usually be unacceptable. Also it provides If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole.
- 7.4.3. Having regard to this issue it must be noted that in view of the complexities of the issues raised, this application is now being considered de-novo and it is not recommended that this particular wording be included as part of a condition if the Board decides to permit.

#### 7.5. Regard to Design and Layout

7.5.1. The Planning Application form provides that the site area is 0.659ha. As shown on the Site Layout Plan submitted, this relates to the northern part of the landholding. The area of the landholding (i.e. Phases 1 and 2) is c.1.06ha. The subject application seeks permission for Phase 2 of the development, encompassing the subdivision of the existing Whitechurch Lodge P.S, new terraced housing and a single landmark house in the western part of the lands, on the opposite side of the river.

- 7.5.2. A Planning Report has been submitted with this application. This notes that in summary the proposed development comprises:
  - 1. The Construction of new 2 storey dwelling house (242sq.m) located to the west of the Protected Structure with 2 no. car parking spaces.
  - 2. Construction of 4 no. new 2 storey terraced houses (147sq.m each) to the north of the P.S with 2no. car parking spaces each.
  - 3. Subdivision of Whitechurch Lodge (P.S) to provided 2no. 4 bedroom dwelling houses (240sqm and 244sq.m) with 3/2 parking spaces respectively. Works to Whitechurch Lodge to include: Demolition of single storey sheds/outhouses along the eastern boundary. Also relative to the existing house the demolition of the 2-storey 1970's extension to the north and 2 storey return to the east. Construction of a new 2-storey extension (47.95sq.m) to the north and forming part of the subdivided unit. General refurbishment and decorative works as set out in the Conservation Method Statement and Development Strategy.

The Schedule of Accommodation provides that the 7no. units proposed as part of the current application will be as follows:

House no.	Floor Area	Private Open Space
1 (subdivision of the P.S)	245sq.m	254sq.m
2 (Subdivision of the P.S)	240sq.m	111sq.m
3	147sq.m	70sq.m
4	147sq.m	60sq.m
5	147sq.m	60sq.m
6	147sq.m	60sq.m
7	242sq.m	1,000sq.m

The site development works are to include the realignment of the site boundary at the northeast corner of the site to form the rear garden areas of the proposed terraced house, internal access roads, landscaping, bin store adjacent to the entrance, lighting and safety railing to existing bridge. It is provided that the completion of both Phase 1 and 2 seek to ensure that the site achieves a sustainable mix of house types and provides for a new residential concept at Whitechurch within a defined sense of place. Also that the proposed courtyard setting of the proposed houses will provide a better mix of house types and will add to the character of the area. House no.7 across the river seeks to provide an attractive focal point when viewed from the Lodge.

#### 7.6. Regard to Interventions – Whitechurch Lodge

- 7.6.1. A Conservation Method Statement, Design Statement and Development Strategy has been submitted. This provides a historical description and has regard to the current condition and general layout of Whitechurch Lodge P.S. Regard is had to the Survey drawings submitted showing the floor plans and elevations of the existing house. It is noted that the existing ground floor plan is organised along a central hall which facilitates the circulation of the building and access to both staircases. It adopts an arrangement which keeps the smaller service rooms to the eastern side of the central spine, which the more spacious and formal reception rooms are located to the west of the hall. The first floor plan is similar to that of the ground floor. There are a number of interventions at this level and details are given of these and regard is had to Conservation/Restoration Method Statement.
- 7.6.2. It is provided that Whitechurch Lodge at 490sq.m is unsuitable for family living and that the subdivision will have a positive effect and provide 2no. 4 bedroom dwelling houses. While it is noted that the current house is in habitable condition as an entity it is considered that the re-use and subdivision of this protected structure which is now vacant will ensure its integrity into the future. It is provided that internally few original features survive. Regard is had to the drawings showing the subdivision of the existing house and the new proposed side extension. It is noted that both separate units will be able to use existing staircases and it is considered that the internal subdivision can be done with minimal intervention on the P.S. It is proposed to replace all existing windows with new hardwood double glazed windows to match the existing, to provide new double doors (2 pairs) in the east elevation in lieu of existing windows to the east elevation. The removal of the existing cementitious pebble dash and render and replacement with lime plaster is considered to have a

- positive effect. It is proposed to remove the return and 1960-70s extension and construct a new extension. There is no objection to the removal of these later interventions and the impact is generally considered to be positive.
- 7.6.3. Proposals include the provision of new entrances to House 1 and House 2. This is to have minimal impact given that both locations have existing entrances and the predominant west elevation is unaffected by the proposals. It is noted that the parapet height of the proposed flat roofed two storey extension is higher (6.65m) than that to be demolished (5.87m). The proposed extensions are set back from the west elevation and will appear subservient to the main house. Regard is had to the proposed extension and to the northern elevation which will appear rather bland and not add to the attractiveness of the P.S. it is recommended that if the Board decide to permit that 2no. additional windows be inserted in the first floor of the extension to match those at ground floor level.
- 7.6.4. Repairs are proposed to the existing roof as is the replacement of a section of slate roof with a flat roof at higher level. It is provided that this will have minimal impact given the location towards the eastern boundary. 3no. conservation type velux roof lights are to be inserted to the inner valley. It is considered that the subdivision of the P.S into 2no. separate units is acceptable provided the works are done in accordance with best conservation practice. If the Board decides to permit it is recommended that it be conditioned that external finishes of the extensions including fenestration match the existing house.

# 7.7. Regard to impact on the Attendant Grounds

7.7.1. The subject site comprises Whitechurch Lodge and its attendant grounds. This is a two storey period house designated as a P.S (RPS no.338) under the SDCDP where it is described as a: *Two storey Georgian Style House*. Its protected status includes the land lying within the curtilage of the structure, garden walls and any associated outbuildings. The house was built in the 1820's with its associated gardens laid out at that time. There are more modern outbuildings close to the main house and a number of sheds and other structures within the attendant grounds of the P.S. Whitechurch Lodge, all of which are no particular merit and are to be demolished.

- 7.7.2. It is provided that the Architectural Heritage Protection Guidelines for Planning Authorities 2011 has informed the Architects Design Strategy and the Lodge has been fully assessed in accordance with these guidelines. Also, that the layout and design has been informed by the detailed Conservation Report and Outline Development Strategy which set out a detailed plan for the subdivision of Whitechurch Lodge into two houses and the development of two separate areas of the site for residential development, the aim being to retain the historic landscape as a communal garden.
- 7.7.3. As noted above, it is proposed to separate the lodge into two dwellings (Houses 1+2), both of which will have a small front garden and rear garden, the boundary of the rear gardens to utilise the existing stone wall which it is proposed to retain. Both dwellings are to be accessed by separate driveways with a combined parking accommodation of 5 no. spaces. It is recommended that if the Board decides to permit that parking for house no. 2 be set back within the home zone area and that the area adjacent to no.2 be retained as part of the private open space for this unit so as not to detract from the setting of the P.S. and increase this garden area.
- 7.7.4. To the north of the lodge the terrace of four are allotted FFLs of between 88.9OD and 90.25OD and so will sit roughly 1.5 2.5metres lower than the subdivided Lodge House. The dimension from the front façade to the proposed terrace to the north facing faced of the new part of Whitechurch Lodge is c. 17.34m and to the north faced of the actual historic structure is c.20m. Access to houses 3-6 is to be via a new access road which runs through the middle of the site and to the west of the Lodge. This road is to be surfaced in a permeable paving to allow controlled percolation of surface water and reduce runoff.
- 7.7.5. It is provided that the development of the site is set around the primary aim of preserving the house and its relationship to is historic setting to satisfy the objectives of the development plan, by both protecting and improving the heritage of the site. This application seeks to assure the amenity to be enjoyed by all future residents of Whitechurch Lodge lands, while providing a sustainable mix of residential units on the overall lands. The Lodge occupies an elevated position on the site and the 4no. terraced houses are to be subservient to this provided in a row at a lower level in a courtyard area to the north of this building, in an area now partially occupied by the sheds to be demolished and the existing entrance driveway to be omitted.

- 7.7.6. Regard is had to the Site Layout Plan and Landscape Plans submitted. It is considered that visually these proposed contemporary houses will present a more dominant form and vista in terms of the length of the new terrace block relative to the setting of the P.S and also having regard to the removal of part of the existing garden area which contains a Cedar of Lebanon tree (discussed further in the Landscaping Section below). It is recommended that if the Board decides to permit that it be conditioned that only house nos. 3 and 4 as a semi-detached pair (close to the north-eastern boundary) be permitted and that house nos. 5 and 6 be omitted. The latter area could then be retained as part of the existing garden area and the cedar tree retained, both of which enhance the setting of the P.S. Therefore, it is considered that provided the modifications to the design and layout as advised i.e omission of terraced house nos. 5 and 6 and retention of the Cedar of Lebanon tree and alteration of the layout of the internal access road, that these two houses as a semi-detached pair would not adversely impact on the character of the P.S.
- 7.7.7. The single detached house using the existing bridge is to be positioned within a mature landscape setting and is to provide a contemporary dwelling across the river. This is to be landscaped with front and rear lawns and a rear patio. It is provided that the proposed house will also ensure passive surveillance of the open spaces and gardens. This will form a new residential element in this north-western corner of the site. Regard is had to the Sections submitted showing the distance and relationship of this house to Whitechurch Lodge. This house is proposed with single, two storey and three storey elements, with a maximum height of c.9m. A study element is proposed at second floor level. It is considered that in view of its location within the grounds of a P.S and proximate to the north-western boundary that if the Board decide to permit that it should be conditioned that the height of the house be reduced to two storey only with the second floor element omitted. However, the Board may decide to omit this dwelling as it is not considered that the siting or overall scale and design of this house will add to the setting of the attendant grounds of the P.S.
- 7.7.8. It is noted that the private open space proposed for this dwelling is in excess of 1000sq.m. This is considered excessive relative to retention of the garden area of the P.S as communal open space. Regard is had to the Residential Standards in Section 11.3.1 and Table 11.20 of the SDCCDP. It is recommended that if the Board decide to permit that the private open space associated with this dwelling not exceed

100sq.m. The drawings also show that this 3no. bed detached dwelling and the access is to be located proximate to and the latter within the flood plain. Regard is had further to this issue in the Flooding Issues Section below.

## 7.8. Overdevelopment of Site

- 7.8.1. The First Party disagree that the proposal would constitute an overdevelopment of the site, because the quantum of buildings on lands, including the existing house, would amount to 14% only of the site area. Based on the P.A. decision to exclude the additional houses and only permit 9no. dwellings on this site, the overall density of the Whitechurch Lodge lands (including the 7no. houses permitted in SD15A/0211) would be very low at 8.5 units per ha. They consider that the proposed development of a total of 7no. houses, including the subdivision of Whitechurch Lodge, would not represent overdevelopment of the site. The seven dwellings on a site of 0.659ha represent a density of 10.6 dwellings per hectare. While this density is lower than that recommended in the 'Sustainable Development in Urban Areas Guidelines for Planning Authorities', on inner suburban/infill areas, regard needs to had, to the sylvan appearance of the subject site within the attendant grounds of a P.S. It is provided that the overall development of Phase 1 and Phase 2 on a site of 1.06ha would create a density of 13 units per hectare.
- 7.8.2. It is provided that to ensure the long-term protection and viability of the historic gardens and walkway in the context of the P.S, a quantum of development is required to financially support the upkeep of the domain and its setting. It is the intension that these dwellings described as auxiliary would serve to increase the residential capacity of the site without distracting from the existing P.S and its gardens, whist at the same time contributing to the conservation of the historic house by reinvigorating the setting and sense of community.
- 7.8.3. However, regard is had to the Council's reasons for refusal and consideration of the relevant conservation policies. It must be ascertained that the proposed development described as auxiliary would enhance the character of the P.S and its attendant grounds rather than lead to a form of development that would detract from it.

  Therefore, the issue of density is not particularly relevant in this scenario.

7.8.4. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009) are of note. Section 5.9 of these Guidelines refers to infill residential development and includes: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.* New housing should have regard to the surrounding environment and the existing character of the immediate area in terms of height; mass; density and materials uses and should have adequate and appropriate access for public and other services. However, having regard to planning policies and objectives the proposed development is within the attendant grounds of the P.S. where previously there has only been the Lodge house. Therefore, the impact of the current proposal which is also within this more sensitive setting proximate to the river Glin needs to be accessed.

# 7.9. Landscaping and Open Space

- 7.9.1. The site has a sylvan setting and the house while proximate to Whitechurch Road has landscaped gardens to the west and south. The site boundaries are defined by mature planting and stone walls. The site perimeter to the north and east is delineated by an old stone wall. The River Glin transverses the site to the west and forms an important riparian feature and habitat.
- 7.9.2. A Landscaping Report has been prepared by Áit Urbanism and Landscape and it is provided that this will further enhance the overall scheme providing a high quality environment with landscaping and shared surfaces and good quality open space for all residents to enjoy. The retention of a significant amount of the site as open space is to serve to protect views of the principal western elevation of the protected structure and preserve views from the protected structure.
- 7.9.3. The Landscaping Report notes the varying topography of the site, the lowest levels are at the northern end of the stream 84.50O/D approx. and rise to 95.25OD along the northern boundary with Whitechurch Road to the south of the house, these levels decrease to roughly 90OD at the north eastern extremity of the site. This notes that the descent from the lodge to the water's edge amounts to an approximate 4 metre level change with survey contours indicating a relatively even slope from the house

- to the river floodplan. The floodplain makes up the middle third of the site and within it runs another channel now overgrown with sedge, the channel appears to have been widened to form an ornamental pond though there is no visible running water in this feature.
- 7.9.4. It is noted that the river banks have dense tree cover with a mixture of self-seeded trees Ash, Sycamore and Alder and trees planted for amenity- Acer, Larch, Monterrey Cypress and Ornamental Cherry's. There are a number of prominent specimen trees in the vicinity of the house; a Cedar of Lebanon, a Walnut, Birch and a Corsican pine. A large Norway spruce is located on the southern boundary and a very large sycamore is located near the southern boundary at the edge of the stream. The boundary of the site to the Whitechurch Road also has a well-developed tree line. A total of 128 trees have been surveyed and tagged in the Arborist's report.
- 7.9.5. The Landscape Report provides that as a principle all high quality and viable existing trees are to be retained with particular attention being paid to the category A trees located infront of Whitechurch Lodge, namely a Beech and Birch. It is noted that a Cedar of Lebanon (Tag no. 525- Category A2), will need to be removed to facilitate the development of houses 5-6. Also, that the loss of this tree will have the greatest impact in terms of landscape and arboricultural values. There is concern that a Cedar of Lebanon tree is to be removed to facilitate the works. This is located within the siting of the proposed terrace of 4no. houses. As this tree forms a fine specimen it is considered unfortunate that it would have to be removed.
- 7.9.6. It is noted that a Tree Survey has been submitted and it is considered important that the trees and woodlands be retained which contribute significantly to the setting of the house and the demesne character of the attendant grounds. The remainder of the trees are described as being of moderate quality in the Arborist Report. It is provided that new specimens will be planted further south of the proposed communal open space within the 'historic landscape curtilage' of Whitechurch Lodge. Regard is also had to the Tree Protection Strategy submitted. All trees to be retained should be appropriately protected during construction in accordance with current standards.
- 7.9.7. The Landscape Report provides that the proposed new buildings within the site will in time be readily subsumed into the local landscape, by virtue of their sensitive design and extensive tree planting proposed. It is provided that on the overall site the

public open space provision amounts to 35% while the quantum of buildings, including the existing house, amounts to 14% of the site area. Details submitted provide that the introduction of the Ha-ha will imbue the communal open space with an undulating topography as the ground is to be raised along the road boundary whilst sloping back down to preserve the ground levels around existing trees. Also, that these trees will be under planted with a variety of bulbs mixtures which will seasonally enliven the space and create an attractive foreground to the lodge.

- 7.9.8. The Landscape design includes the provision of a riverside walk which should connect both Phases 1 and 2 of the scheme. This is to connect to the riverside walk permitted in the Phase 1 part of the scheme. A direct access point to the river walk is to be located to the south west of the home zone serving house nos.3-6 north of the Lodge. Details are given of proposed permeable surfacing and it is noted that a 1.1m high chestnut pale fence will form a barrier at the river's edge. A 2m wide opening in the estate railing boundary is proposed to allow users access to the grassed lawns and the landscaped setting.
- 7.9.9. The communal open space being provided on the overall site for Phase 1 and Phase 2 amounts to in excess of 0.29ha on an overall site area of 1.06ha which is well in excess of a minimum of 10% in areas zoned objective A. This would be further increased if the area of private open space for house no.7 were reduced.
- 7.9.10. It is recommended that if the Board decide to permit that it should be conditioned so that the scheme is revised so that this Cedar of Lebanon be protected and retained. This would result in terraced house nos. 5 and 6 being omitted as discussed in the design and layout section above. Nos 3 and 4 would then remain as a semi-detached pair with parking allocated to the north east as shown in the homezone on the Site Layout Plan submitted. The internal access route would also need to be relocated, preferably to the front of the western elevation of Whitechurch Lodge in the vicinity of the existing gravel surfaced area.

#### 7.10. Green Infrastructure

7.10.1. Details from Áit Urbanism & Landscape to provide a response to the Council's third reason for refusal relative to adverse impact on green infrastructure, have been included with the First Party Appeal. They refer to landscape proposals to include a

- proposed planting scheme for a significant number of new trees (c.95) ranging from light standards to semi-mature. A large portion of these trees are to be concentrated in the riparian zone of the River Glin and are native species and they provide details of such.
- 7.10.2. They provide that the communal space in the proposed development is to be directly adjacent to the riparian zone and the banks of the River Glin which is itself an ecological and recreational corridor. They have regard to the drawings submitted and note that the section line cuts through the River Glin approx. 16m to the south of House 7. They contend that the proposed development is an enhancement rather than a contravention of the green infrastructural policies and objectives. Also that the extent of proposed tree planting will contribute to the sylvan nature of the site, thus increasing its amenity as well as biodiversity value. It is provided that the proposed development will have an open space provision that will benefit future residents, is sensitive to and does not encroach on the setting of the River Glin and is envisaged as the key contributor to the sites landscape context. Regard is also had to the use of SUDs in the Drainage Section below.

#### 7.11. Access and Parking

- 7.11.1. The existing access to the Lodge is located to the north of the site and is via the junction of the public narrow Whitechurch Burial Ground Road with the main Whitechurch Road, which forms the eastern boundary of the site. This narrow road to the north of the site serves Whitechurch Old Church and Graveyard and a large dwelling to the north west.
- 7.11.2. A new access was permitted under Reg.Ref. SD15A/0211 to the south of Whitechurch Lodge and this will provide a single point of access to serve the 7no. permitted dwellings in Phase 1 and also the proposed development of Phase 2. The existing access will then be blocked up. It is noted that sightlines are somewhat restricted due to bends on the Whitechurch Road, albeit within the urban speed limits. The proposed development does not propose changes to the access and will not impact on the access of the permitted development. However, it will result in an increase of the number of vehicles emerging from the access onto Whitechurch Road.

- 7.11.3. The new internal access road to serve Phase 2 runs is proposed parallel to the river but is to be concealed from views from the upper part of the site. A 'Ha-ha' landscape concept is proposed to create a visual barrier to the roadway whilst preserving outward views from Whitechurch Lodge and surrounding landscape. The recontouring for the Ha-ha is to follow the existing ground profile and there will be no concrete retaining walls. The topography of the communal open space in front of the lodge is to be raised relative to the road, giving the effect that the road is sunken and consequently hidden from view. The Engineering Report submitted with the application provides that this involves raising the ground level locally and is in line with the SDCDP Housing Policy Objective H16 -1 relative to Steep or Varying Topography Sites, which seeks: To ensure that all developments including buildings, streets and spaces are designed and arranged to respond to and complement the site's natural contours and natural drainage features in accordance with the recommendations of the Urban Design Manual – A Best Practice Guide (2009). It is considered that while this maybe the case relative to the proposed development, it will represent a significant change to the existing topography and landscaped setting within the curtilage of the P.S.
- 7.11.4. As shown on the Site Layout plans the two new housing units in the lodge are to have their own private parking adjacent to the lodge and the four no. terraced houses are to share communal parking spaces. A traffic calming home-zone is proposed to the front of houses 3-6 and there are to be no kerbs or level changes to indicate the delineation between pedestrian and vehicular movements. House 3 is to have adjacent parking whereas the spaces for nos. 4 to 6 are to be amalgamated to the North of Whitechurch Lodge. These spaces are to be screened by a 2m high stone wall to tie in with the existing boundary wall. If the proposal is to be revised as per the Design and Layout section above (i.e the omission of house nos. 5 and 6), then the homezone area could also be used to accommodate the two parking spaces for house nos.2 in the P.S i.e a total of 6no. parking spaces would be provided for house nos.2,3 and 4 in this area.
- 7.11.5. Two parking spaces are also proposed for house no.7 across the river in the north western corner of the site. This house is to be accessed by a driveway running from the homezone and crossing the river at a pre-existing bridging point. The bridge itself is narrow and is to be upgraded with handrails and decking for this new purpose. It is

- of noted that Section 5.25 of 'The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)' provides: Where development proposals include the construction or amendment of bridges, culverts or similar structures the applicant should have regard to the requirements of Section 50 of the Arterial Drainage Act, 1945. However, it is not intended to replace or do major amendments to the existing bridge.
- 7.11.6. The First Party provide that they are willing in the interests of the orderly development of the overall site to accept a condition as part of any planning permission which states that no development shall commence for Phase 2 Whitechurch Lodge until the site entrance and access road as permitted under Reg.Ref.15A/0211 are constructed. It is recommended that if the Board decide to permit that such a condition be included.

# 7.12. Archaeological issues

- 7.12.1. An Archaeological Impact Assessment has been submitted. This notes that the site of the proposed development contains no recorded monuments listed within the RMP. During the field survey no surface evidence of any archaeological features were identified within the site of the proposed development. However, the site is located within close proximity to the RM DU022:030 the Ecclesiastical Remains of the Whitechurch and its associated graveyard. Historical records suggest that there has been a church at the site of the Whitechurch since the 13th century which was associated with the medieval St. Mary's Abbey of Dublin. The Burial Ground is included in the list of Protected Structures in Schedule 2 of the SDCDP i.e: RPS NO.334 Ecclesiastical Remains, Church (Ruin), Graveyard, Font, Graveslab(s), Cross Fragment, Bullaun (RM).
- 7.12.2. It is noted that the submission from the Residents Association on file considers that the omission of units 3-6 and unit 7 from this proposal would facilitate the retention of the setting and character of this historical burial ground P.S and road dating back to the12th Century, its ancient avenue and its extremely old network of graveyards and also the curtilage of the P.S Whitechurch Lodge. They consider that the opinion of the Heritage Officer should be sought regarding the heritage impact of the proposed development on the surrounding P.S, their undisturbed setting, historical significance and character.

- 7.12.3. Both Whitechurch Lodge (P.S no.338) and the Whitechurch Burial Ground (P.S no.334) are also included within the National Inventory of Architectural Heritage (NIAH). Details of these descriptions are given in the Archaeological Report. The Appraisal for the house provides: Though refurbished and altered, and presenting an asymmetrical entrance front, this house retains a striking rare façade of bold simplicity. Enhances the vicinity due to its prominent siting inside a bend in the passing road.
- 7.12.4. The Archaeological Report includes that cartographical sources dating from 1837, 1869 and 1907-09 show the site as a small parkland style garden enclosed by trees with a network of interconnecting garden paths. This also clearly indicated that between 1837 and sometime after 1907-1909 the water course that passes through the grounds of Whitechurch Lodge has been diverted on at least two occasions. While no features have been recorded on site, the site may have the potential to contain previously unrecorded archaeological features and deposits.
- 7.12.5. It is therefore recommended that should planning permission be granted for Phase 2 of the development, all groundworks should be subject to archaeological monitoring during construction phase. Taking into account the protected status of Whitechurch Lodge all works should be carried out in consultation with the architectural conservation professional and in accordance with best conservation practice. If the Board decides to permit it is considered that such matters can be conditioned.

#### 7.13. Other issues

7.13.1. A Proposed Construction Plan for Development at Whitechurch Lodge has been submitted. This notes that the initial works are to comprise the construction of a permanent entrance together with associated ground - works of the proposed development. The development works are to include the construction of houses, works to the P.S and all associated ground works and Landscaping. They note that the Applicant is desirous to construct the proposed development ahead of the granted development. Then enabling works & initial works can be accessed via the existing entrance. Once the entrance is formed they can close the existing entrance by constructing the boundary wall of the proposed development. The applicant will then have the main entrance to access the site and all normal activities. This allows the applicant to complete Phase 1 (the proposed development) and the associated

- Landscape. Phase 2 (the granted development will then commence). They provide that once this is completed this site is self-enclosed and all works will be self-contained within the development.
- 7.13.2. It is noted that there is to be a wheel cleaner at the site entrance and a daily road sweep during the works. Also that the site will be subject to the Building Contractors Plan and the Health and Safety Regulations. A Safety Statement is included. Elsewhere in the documentation submitted it is noted that the subject application is referred to as Phase 2. Having regard to Phasing it is recommended that in the interest of orderly development, if the Board decide to permit, that it be conditioned that Phase 1 which includes the permitted access and the 7no houses in the southern area of the site (SD15A/0211) be completed first.
- 7.13.3. Regard is had to issues of Demolition and Construction in the Waste C&D Waste Management Plan for a Development/Redevelopment Project. This provides an estimate of quantities of C&D Wastes/material surpluses that will arise. C&D Waste will arise on the Project mainly from excavation. All topsoil is to be stored on site and reused and subsoil is to be recycled for use as topsoil. Details are given of recycling, storage and disposal methods for other excavated materials. They note that it is their intention to engage specialist waste service Contractors for removal of waste off the site to bring the material to a facility which currently holds a Waste Licence/Waste Permit. It is recommended that if the Board decide to permit that it be conditioned that a C&D Management Plan be submitted prior to the commencement of development.

## 7.14. Drainage

7.14.1. Regard is had to the Molony Millar Consulting Engineers documentation which accompanies this application in relation to services. This notes that the proposed water supply is a new 100mm connection taken from the public main. Piped services are available in the public road and it is intended to connect to the public foul sewer in Grangebrook Vale. Foul effluent generate from the proposed development will be discharged by gravity into the foul sewer system located to the north of the site. From there, it will be carried on to the Ringsend WWTW, where it will be treated and then discharged into the Irish Sea at Dublin Bay.

- 7.14.2. The surface water is to be discharged by gravity into the foul sewer system located to the north of the site and to drain into the Whitechurch Stream which passes through the site, before entering the Glen River. Surface water collection on site will be dealt with using a combination of SUDs techniques including an installed permeable pavement system and partial infiltration. There will be no connection to a stormwater sewer but instead there will be an overflow from the permeable pavement into the river via a small precast headwall. The Scott Crawley response to the appeal provides that there should be no manipulation or alterations to the stream except for the installation of the headwall which has been assessed within the Ecological Impact Statement.
- 7.14.3. It is provided that SUDs is to be incorporated in respect of surface water drainage, this includes use of permeable materials for all outdoor hard surface areas, including the access road, storm water attenuation and rainwater butts. It is provided that the attenuation has been designed for 100years +10% climate change. Attenuation Calculations have been provided as have details of Foul and Storm Network Design and Drainage Levels and accompanying drawings.

#### 7.15. Regard to Flood Risk

7.15.1. The River Glin, a tributary of the River Dodder flows through the site, therefore while it appears as a narrow stream during the drier summer period the issue of potential flooding is relevant particularly to proposed house no.7 and is referred to in the Council's first reason for refusal. Regard is had to 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)' which allows for development provided that a number of key criteria are met. It has regard to the source-pathway-receptor model and to the scales used for flood risk assessment. Reference is had to strategic and site-specific flooding. The proposed development is located within Flood Zone B. Floodplains will primarily be found in Zones A and B. Section 2.23 of the Guidelines provides in relation to Flood Zone B i.e. – where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding). Generally, it is recommended that housing which is a highly vulnerable use be sited in Zone C where there is a low probability of flooding, unless the requirements of a Justification Test are met. This includes in

- Section 5.16: A precautionary approach would be to set floor levels above the 1% flood level ignoring the moderating effects of flood defences. Section 5.24 recommends refusal where there are unacceptable residual flood risks.
- 7.15.2. A detailed Site Specific Flood Risk Assessment (which has been updated since the previous Phase 1) accompanies the application and the flood plain has been identified on the drawings submitted. This notes that the top of the proposed gravel driveway at the existing bridge (access driveway located within 1 in 100 year floor plain) will be constructed at the same levels as the existing ground as shown on the drawings and provides there will be no impact. The top of the proposed walkway located within the 1 in 100 year flood plain will be constructed just above the existing ground levels to avoid excavations within the root zones of existing trees. The impact of the proposed walkway upstream and downstream is considered to be minor and negligible respectively. It is provided that the proposed development will not drop the quality of water in the Whitechurch Stream. The proposed gravel driveway and permeable pavement with partial infiltration system is to be effective in removing urban runoff pollutant.
- 7.15.3. It is noted in the FRA submitted that the official guidance in the GDSDS policy document recommends floor levels of properties are at least 500mm above the 100 year flood level. The minimum finished floor levels for the proposed house are given as: 87.000m OD +0.5m= 87.500 O.D. It is provided that based on the drainage drawing provided (and included in the FRA Report) all proposed houses FFLs are set above the minimum.
- 7.15.4. In response to the Council's reasons for refusal, the First Party provide that as shown on these drawings, the proposed house no.7 is outside of and not within the 100 year flood zone. It is noted that there is an existing bridge over the River Glin, within the lands of Whitechurch Lodge and it is proposed to use this bridge to access house no.7. No details were submitted as part of the application as there are no plans to alter the bridge, except to add a handrail and replace the deck across it.
- 7.15.5. The issue is whether it is considered appropriate to locate a house adjacent to and where the access will be via the narrow bridge that is within the floodplain of the River Glin. The First Party provide that while they accept that the existing bridge structure and its associated means of access are within the 100year flood plan and

that the access could be affected during a rare flood event, an alternative means of access could be provided by the placement of a pedestrian gate onto Cemetery Road. They refer to the Molony Millar drawing and the Flood Risk Assessment and note there is a level difference of approx. 500mm between the 100 year flood zone and the floor level of the proposed dwelling. However, the access by this narrow bridge is within the floodplain. As noted in the Design and Layout Section above, it is recommended that if the Board decide to permit that house no.7 be omitted.

## 7.16. Regard to Ecology

- 7.16.1. An Ecological Impact Assessment has been submitted with the application. This has regard to Desk Study and Field Surveys. These include regard to habitats (including riparian), flora and fauna on site. A Habitats Map is included in Fig.3 and Table 4 provides an Ecological Evaluation of Sensitive Receptors. It is noted that the area of the site proposed for house no.7 is shown as recently felled. Regard is had to the impact of construction on protected fauna including bats, badger, otter, deer, breeding birds. While there will be some negative impacts it is provided that these will for the most part be short term at local level during construction phase. The introduction of more modified habitats on site (e.g. buildings and artificial surfaces (gravel paths and tarmac driveways) is considered to be an imperceptible negative impact at local level. The loss of areas of local importance (lower value) habitats present (Table 4) is considered to be permanent, slight negative impact at local level.
- 7.16.2. The Arboricultural Impact Report also notes that mature trees and vegetation can provide roosting opportunities for bats, which are provided with legal protection and nesting birds. They refer to compliance with the Wildlife (Amendment) Act,2000. Bat surveys were carried out relative to the buildings and trees within the curtilage of the P.S. Trees with definite potential roost features were classified as Category 1 trees, Table 3 refers. Some bat activity was recorded forging along the Glen River and surrounding woodland. Details are also given of bird species recorded on site. It is provided that the removal of trees under this application will result in an imperceptible negative impact on local bats. However, there may be some impact during construction works. Regard is also had to the impact of the proposed development at Operational Stage relative to the need for limited low lighting etc. It is

- recommended that appropriate regard be had to bats and such low lighting be conditioned if the Board decides to permit.
- 7.16.3. The Glen River potentially contains brown trout and is confirmed as having otter, which could potentially be indirectly impacted if surface water run-off during construction introduced pollutants (spillages etc) or suspended solids via existing surface water sewer discharge points. It is provided that impact duration would be short-term due to the limited period of construction (<2 years). This would likely be a temporary negative impact at the local level.</p>
- 7.16.4. Section 6 of the Report provides details of mitigation measures proposed during construction and operational phases. These include protection measures to reduce the potential risk of impacts to retained trees and hedgerows and provides that any remedial works will be carried out by a qualified arborist. It is noted that although the risk of any significant impact on water quality in the receiving waterbodies is considered to be extremely low, best practice is to be implemented at all times in relation to all construction activities to avoid any potential events. Details are given of measures to reduce the impact of bats including that all lighting will be installed to minimise light spill onto Whitechurch Lodge, the wood line, treeline and Glen River. Measures will also be taken to reduce the impact on breeding birds.
- 7.16.5. The Molony Millar submission with the appeal provides that they would be prepared to accept a condition to include a silt trench along the banks of the River to catch construction run off and that is to be fed through a settlement tanks to remove silt before being discharged to the river.
- 7.16.6. It is concluded in the Report, that given the mitigation proposed for the predicted impacts as described in the documentation submitted that the proposal will not result in adverse impact on the ecology in the local or wider environment.

#### 7.17. Screening for Appropriate Assessment

7.17.1. European Sites are addressed in the AA Screening Report which has been integrated into the EclA Report. The Report also addresses potential impacts on nationally designated sites – Table 2 refers. Scott Cawley Ltd has screened the proposed development for AA in accordance with the requirements of Article 6(3) of the EU Habitats Directive (92/43/EEC).

- 7.17.2. There are no designated areas on the site. The closest cSAC to the proposed development site is the Wicklow Mountains cSAC which is located c.4.1km to the south and the closest SPA, Wicklow Mountains SPA, is located c.4.2km to the south. The Glen River connects the site to designated sites in Dublin Bay, which are located c.7km to the north east. The location of European sites relative to the proposed development is shown in Figs.1 and 2 of the Report.
- 7.17.3. Regard is had to the impacts of the proposed development relative to AA Screening at construction and operational phases. The designated sites in Dublin Bay and the River Dodder pNHA are the only Designated Areas for Nature Conservation with a potential source-pathway-receptor link between the proposed development and the ecologically designated sites. This pathway is due to the presence of the River Glin and by virtue of the fact that foul water will ultimately be discharged to Dublin Bay via the Ringsend WWTP, and that it is likely that any surface water runoff from the site will also end up discharging to the coast via the existing surface water drainage network. As provided in the documentation submitted relative to drainage and low risk of pollution of water courses, the impact of the proposed development on water quality in both the River Dodder and Dublin bay is considered to be neutral.
- 7.17.4. The Ecological/AA Screening Report has addressed potential for significant effects on European Sites, and concluded that none are likely to arise as a result of the proposed development, either alone or in combination with other plans or projects. In view of all these issues it is considered that having regard to the nature and scale of the development proposed and to the nature of the receiving environment, no appropriate assessment issues arise.

#### 8.0 **Recommendation**

- 8.1. It is recommended that having regard to the documentation submitted, the submissions made by the parties and to the site visit and assessment above that the Board issue a split decision i.e.
  - A) permission be granted for the subdivision of Whitechurch Lodge P.S into two separate dwelling units and the provision of house nos.3 and 4 as a semidetached pair subject to the conditions below.

 B) It is recommended that permission be refused for terraced units 5 & 6 and unit no.7 for the reasons and considerations below.

### 9.0 Reasons and Considerations – A

9.1.1. Having regard to the land use zoning of the site, to the sylvan character of the area within the grounds of the Protected Structure Whitechurch Lodge and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development i.e. the subdivision and extensions to Whitechurch Lodge into two separate units and the provision of housing units 3 and 4 as a semi-detached pair in the north eastern part of the site, would not seriously injure the residential amenities of surrounding dwellings or the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### 10.0 Conditions

The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 20th day of March, 2017, 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.

**Reason:** In the interest of clarity.

- (a) Conditions, where relevant, attached to Planning Permission Registered
   Reference. SD15A/0211 shall apply.
  - (b) No development shall commence for Phase 2 Whitechurch Lodge until the site entrance and access road as permitted under Reg.Ref.15A/0211 for Phase 1 are constructed.

Reason: In the interests of orderly development.

- 3. The design of the proposed development shall be amended as follows:
  - (a) Unit nos.5, 6 and 7 shall be omitted from Phase 2 and unit nos. 3 and 4 to the north east shall be retained as a semi-detached pair.
  - (b) The internal access route to these units shall be realigned closer to the western elevation of Whitechurch Lodge. The proposed access route and changes to ground levels to form the Ha-ha element shall be omitted and this area shall be retained along with trees within its landscaped setting.
  - (c) The parking spaces proposed for unit no.2 shall be omitted from the side garden of this property and included in the Homezone parking area.
  - (d) Two windows to match the existing shall be inserted in the proposed extension at the northern elevation of Whitechurch Lodge.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of protection of the setting and attendant grounds of the Protected Structure Whitechurch Lodge and of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity of the setting of the Protected Structure.

5. All repair/restoration/extension works to the Protected Structure shall be carried out in accordance with best conservation practice as detailed in the application and in the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011 and be supervised by a Grade 1 RIAI qualified conservation architect (or equivalent). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

- **Reason:** To ensure that the integrity of the historic structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.
- 6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall include the following:
  - (a) Retention of the existing landscaped setting of the Protected Structure including the Cedar of Lebanon tree (shown tag no. 525 on the Tree Survey drawings submitted).
  - (b) Provision of riverside walks to provide for connection between Phases 1 and 2 of the proposed development.
  - (c) Details of additional landscaping proposed within the site.
  - (d) Tree protection measures in accordance with current standards shall ensure that existing trees to be retained on site are protected and retained during construction works.
  - (e) Boundary treatments for proposed realigned boundaries.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the retention of the visual amenity of the setting of the Protected Structure.

7. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection

8. 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. All attenuation provision shall take place outside the branch spread of trees to be retained.

**Reason:** In the interest of public health and to ensure a proper standard of development.

9. The internal road network serving the proposed development including access routes, turning bays, junctions, footpaths, parking areas and external lighting on site shall be provided in accordance with a scheme details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of amenity and public safety.

10. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

- 11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

This shall also include a detailed method statement to mitigate potential nuisance including noise and dust. The statement should outline how it is proposed to prevent spillage or deposits of clay, rubble or other debris on adjoining roads during construction

**Reason:** In the interests of sustainable waste management and to mitigate potential construction nuisance.

13. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

14. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and recyclable materials, in the interest of protecting the environment.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

16. 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.

#### 11.0 Reasons and Considerations – B

- 1. Having regard to the locational context and planning history of the subject site within the curtilage of a Protected Structure, it is considered that the proposed development of unit nos. 5,6 and 7 by reason of siting, scale, height, design and layout, and in particular the impact on landscape and mature trees and the setting of the attendant grounds, would constitute development which would appear overly dominant and piecemeal and detract from the character and setting of the Protected Structure, and would therefore be contrary to Policy 3 'Protected Structures' and Objectives HCL3-1 and HCL3-2 and Policy 6 'Green Infrastructure New Development in Urban Areas' and Objective G6-1 of the South Dublin County Council Development Plan 2016-2022. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
- 2. The separate siting of proposed dwelling no. 7, and in particular its proposed access route, which necessitates the crossing of the River Glin via a narrow bridge, is in an area which is at risk of flooding and would therefore be contrary to the proper planning and sustainable development of the area.

Angela Brereton Planning Inspector 24<sup>th</sup> of July 2017