



An
Bord
Pleanála

Inspector's Report PL.06D.248406

Development	Permission for a house and associated site works.
Location	Site beside No. 40 Clarinda Park West, Dun Laoghaire, Co. Dublin.
Planning Authority	Dun Laoghaire- Rathdown County Council.
Planning Authority Reg. Ref.	D17A/0113.
Applicant	Bernie Farrell & Alasdair McAllister.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party Vs Decision.
Appellants	Bernie Farrell & Alasdair McAllister.
Observers	<ol style="list-style-type: none">1. Clarinda Park House Management.2. Kevin Rockett.3. Patrick & Rosemary Sweetman.4. Colette Kinsley.5. Clarinda Park Residents Association.6. An Taisce.
Date of Site Inspection	25 th July 2017
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1 This site is located within the Clarinda Park Architectural Conservation Area (ACA) on the eastern side of Clarinda Park West, opposite Crosthwaite Terrace. Clarinda Park West is to the north of Corrig Road, south of George's Street Upper and southwest of Dun Laoghaire town centre.
- 1.2 The site is at the end of a terrace of Victorian villas (Protected Structures) built c.1870s along the eastern side of Clarinda Park West at the eastern entrance to Clarinda Park House (Protected Structure). This terrace is visually attractive with a high degree of symmetry and harmony when addressing the road. The western side of Clarinda Park West is characterised by 2 storey over basement terraces. Works and alterations to houses along Clarinda Park West to date have not materially impacted on the front facades or the general appearance and character of the area with extensions in the main to the rear of the houses. A number of contemporary style infill/side garden developments and extensions have taken place within Clarinda Park Architectural Conservation Area.
- 1.3 The site, with a stated area of c.0.0899 hectares, is rectangular in shape and contains the access road to Clarinda Park House and a small section of the southern edge of Clarinda Park. The western boundary of the site fronts onto Clarinda Park West. To the east it is bounded by Clarinda Park House (converted into apartments) and to the south by No. 40 Clarinda Park West, an end of terrace. To the north is Clarinda Park. There are a number of mature trees on site. The main section of the site is overgrown and separated from the adjoining residential properties by walls/fences. There are HSE Notices on site in relation to the treatment of vermin.
- 1.4 Maps, aerial images and photographs are in the file pouch.

2.0 Proposed Development:

The proposed development comprises of the following:

- Construction of part three storey over basement contemporary house with a L-shaped ground floor/lower floor along Clarinda Park West and a three

storey pavilion to the north elevation overlooking Clarinda Park. (stated gfa of 363 sq.m).

- Materials and finishes include a polished granite aggregate plinth and a CorTen steel cladding to the pavilion that overhangs the footpath along the access to Clarinda Park House.
 - Vehicular access off the access road to Clarinda Park house
 - New connections to water main and public sewer.
- on a site with a stated area of c. 899 sq.m.

The following documentation is included in the application:

- ***Architects Cover letter.***
- ***Architectural Visual Assessment.***
- ***Architectural Heritage Assessment:***

The Report concluded that:

- The proposal provides a scheme which is carefully modulated to minimise any adverse impact by retaining long distance views and vistas and by carefully observing existing eaves heights and working within these parameters.
- The introduction of a solid wall to back of pavement, while not typical of the terraces, has a number of precedents within the immediate vicinity.
- The use of contemporary materials such as polished granite aggregate (plinth) and corten steel cladding (pavilion) provides a contrast to the ruled and lined, lime rendered facades characteristic of the late Georgian and early Victorian terraces.
- This careful use of contemporary and contrasting materials and the play of volumes provides a frisson with the form and massing of the adjacent terraces which will set the proposed new development clearly into the 21st century, without compromising the old receiving environment of the ACA.
- The existing gate pillars should be relocated to the rear of the site, bounding the entrance to Clarinda Park House, as a reference to the past and to retain historic material on site.

Flood Risk Assessment & Drainage Report

No issues of concerns highlighted.

The Report concluded:

- The nearest flood event was 0.6km from the site.
- Proposed to connect all foul water drainage internally on site and to provide a new single connection to the existing foul manhole at the north west corner of the site. This is connected to the combined sewer running along Clarinda Park West.
- A completely separated surface and foul water drainage system is proposed on site.
- Surface water runoff from all impermeable surfaces on site will be collected and diverted to a soakaway to be constructed in the grassed area to the south east. A perimeter ACO drain is to be provided for the hard landscaped areas and at the proposed entrance gates. A very small portion of runoff from the front access steps will be connected to the existing stormwater manhole at the northern boundary.
- The use of Green roof over the single storey section of the house to reduce the volume of surface water runoff. The total area of green roof to be provided is c. 115 sq.m which accounts for approximately half the footprint of the building. Any overflow from this grass roof will also be connected to the soakaway.

3.0 Planning Authority Decision

3.1. Decision

Refused permission on the following grounds:

- 1. It is considered that the proposed development would endanger public safety by reason of a traffic hazard or obstruction of road users, would create an undesirable precedent and would adversely affect the use of the existing road (laneway) by traffic due to the two residential floor levels over the footpath along the access road to Clarinda Park House. The proposed development would seriously injure the amenities of property in the vicinity*

and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *It is considered that the proposed development would endanger public safety by reason of a traffic hazard or obstruction of road users, would create an undesirable precedent and would adversely affect the use of the existing road (laneway) by traffic due to a) the 4.865m wide proposed new vehicular entrance creating potential hazardous manoeuvres for future vehicles entering and exiting the said proposed new vehicular entrance and b) the lack of visibility for pedestrians on the footpath for a vehicle exiting from the said new vehicular entrance. The proposed development would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *The large area of glazing to the south east elevation, given its size and scale will give rise to overlooking of No. 40 Clarinda Park West such as to seriously injure the residential amenities of this dwelling. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1 Planning Report.

The Planner's Report forms the basis for the Planning Authority's decision. The main issues are summarised as follows:

- Overall the Planning Authority is supportive of the principle of the proposed development. Contemporary, high quality design such as that proposed is encouraged. The Area Planner concurred with the Conservation Officer that the site is suitable for a modern building that would read of 'its own time' subject to modifications as suggested by the Conservation officer for any future application.
- The proposal is set back from the boundaries to protect the amenities of adjoining properties. Overshadowing is not considered an issue.

- Concerns that the large glazed sections, serving a stairwell and a seating area at the upper floor level, facing No. 40 Clarinda Park West would overlook and detract from the residential amenities of this residence.
- The report concluded that a Further information request was not appropriate as it was considered that a major redesign would be required to address the Conservation Officer's recommendations and those of Transportation Section relating to traffic. Therefore, a recommendation to refuse permission issued on residential amenity and traffic grounds.

3.2.2 Other Technical Reports

Conservation Division. The main issues are summarised as follows:

- The developers engaged in extensive pre-planning. The contemporary design is welcomed and seen as a clear legible later insertion within the context of the ACA. The design, scale, materials are considered appropriate bearing little impact on adjoining Protected Structures. The proposal would enhance the character of the ACA.
- Clarinda Park has been altered and arguably eroded over the years. The site in its current format does not contribute to the character and appearance of the ACA.
- The views to and from No. 40 Clarinda Park West have been protected and the building will remain unaffected by the proposal.
- The site is currently undeveloped; therefore, any development will have a visual impact. The proposal complies with the policies as set out in the Development Plan and over time will form part of the evolving narrative of the development of Clarinda Park.
- The scale, height and massing of the proposal is considered acceptable. The aesthetics and form of the building provides the desired juxtaposition between the old and the new.
- In order to minimise any potential visual impact and improve the overall development of the site with greater comfort within the ACA it is recommended that a revised treatment for the external entrance steps and, re-design/improve the aesthetics of the railings/glazed screens and improve the detailing of the lower level fronting onto the streetscape

Parks and Landscape Services. The site is considered to be located in a significant classic landscape setting, a protected Victorian Square.

Recommendation that the development be refused as the proposal is not in accordance with the proper planning and sustainable development the area; in respect of the ACA designation, relative the State guidance and the Dun Laoghaire Rathdown County Development Plan policies and standards for urban design, landscape design and placemaking as they apply to contemporary, sensitive historic settings and public realm.

Transportation Planning.

Recommendation that the development be refused for the following reasons:

- Endangerment of Public Safety due to the proposed two residential floor levels which overhang the footpath along the access road to Clarinda House. (ie due to falling objects/materials). Undesirable precedent for development on adjoining sites and would adversely affect the use of the laneway for traffic.
- Endangerment of Public Safety due to a) the 4.865m wide proposed vehicular entrance creating potential hazardous manoeuvres for future vehicles entering and exiting the proposed entrance and b) the lack of visibility for pedestrians on the footpath of an exiting vehicle from the proposed entrance. Undesirable precedent and would endanger public safety by reason of a traffic hazard.
- The proposal would materially contravene a policy indicated in the County Development Plan.

Drainage Section. No Objection.

Irish Water. No Objection.

3.3 Third Party Observations

- 3.3.1 26 submissions were received by the Planning Authority which included 5 by Observers to this appeal (Clarinda Park House Management, Kevin Rockett,

Colette Kinsley, Patrick & Rosemary Sweetman and the Clarinda Park Residents Association).

3.3.2 The issues raised in the submissions are largely in line with the observations on this appeal and shall be dealt with in more detail in the relevant section of this Report.

Other points of concern raised are summarised as follows:

- The proposal does not comply with land use zoning objectives, policies and Development Management Standards.
- Overlooking and overshadowing of No. 40 Clarinda Park West.
- Concerns regarding boundary treatment and landscaping between the site and No. 40 Clarinda Park West.
- The house is within the curtilage a Protected Structure and there is no reference to this in the application.
- Proposal would be a gross overdevelopment of the site, incompatible with protecting the Victorian character of the Park.
- The parcel of land is not suitable for development and should be acquired by the Council and maintained as a part of the green amenity area.
- Unacceptable loss of historically important trees.
- Proposal would interrupt the views and vistas to and from the park.
- The boundary treatment would detract from the streetscape and be out of character with the Square
- The development would be visually incongruous and obtrusive with the period architecture of the protected structures that are in the Park area which are terraced and mostly built c. 1850s. It would detract from the setting of Clarinda Park House. There is a complete disregard for the designation of the Architectural Conservation Area.
- History of refusals by An Bord Pleanala for the development of the site.

- Planning Enforcement action regarding non-compliance with condition no. 8 of the parent permission.
- Undesirable precedent.
- History of unauthorised uses and vermin on site.
- Does not respect the existing building line and unacceptable overhang over footpath.
- No consultation with local residents.

4.0 Planning History

Application Site:

There are historical refusals from the 1990s on this site by An Bord Pleanala for developments ranging from terrace of houses to single dwellings on the grounds of design and inappropriate intervention on the urban setting of Clarinda Park and the setting of Clarinda Park House on a site within a conservation area. These included:

Planning Authority Reference No. D95A063 (An Bord Pleanala Reference PL. 06D.097902). Permission for the conversion of Clarinda Park House to 23 apartments. This included the demolition of section of the existing house and construction of a new substantial extension. Condition No. 8 excluded a block from the application site and that this area should retained for its sylvan character.

Planning Authority Reference No. D96A/0712 (An Bord Pleanala Reference PL. 06D.101188) permission refused in 1997 for 2 semi-detached houses.

Planning Authority Reference No. D98A0911. (An Bord Pleanala Reference PL. 06D.109801). Permission refused for a two storey dormer terrace of 3 houses on grounds relating to intrusion on Clarinda Park House and the conservation designation of the area. And the design was out of character with the area.

Planning Authority Reference No. D01A0999. Permission refused for a two storey detached dwelling for the following reason:

The proposed development by reason of its siting and design would be seriously intrusive in the Clarinda Park urban space and would seriously injure the setting of Clarinda Park House (a Protected Structure) in this area, which is designated a conservation area in the current Development Plan for the area. The proposed development would, therefore, materially contravene the

Development Plan and be contrary to the proper planning and sustainable development of the area.

There are examples of modern interventions within Clarinda Park ACA.

Planning Authority Reference No. D08A/1083. Permission for a contemporary style detached house at 33 Clarinda Park East.

Planning Authority Reference No D96A/0137 Refers to the change of Use at Sandycove School of English at No. 1 Clarinda Park North which also front onto Clarinda Park West. There is a modern glazed element connecting two buildings

5.0 Policy Context

5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022

- Land Use Zoning Objective 'A' *To protect or improve residential amenity.*
- The site is located within the Clarinda Park Architectural Conservation Area.

Built Heritage

Section 6.1.4 Architectural Conservation Areas (ACA) refers to development within Architectural Conservation Areas. **Policy AR12** refers to the criteria for appropriate development within the ACA, and that proposals shall be considered in relation to a range of criteria, including seeking a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

Section 8.2.11.2 (iii) refers to development management standards for development within proximity to a Protected Structure and the requirement to protect its setting and amenity.

Section 8.2.11.3 (i) refers to development management standards for new development within Architectural Conservation Areas which should take account of their context without imitating earlier styles and where appropriate, contemporary design is encouraged that is complementary and sympathetic to the surrounding context and scale.

Appendix 4 includes the Record of Protected Structures & Architectural Conservation Areas. The Record of Protected Structures does not define the curtilage for the Protected Structures at Clarinda Park West or that of Clarinda Park House.

Most of the houses within the ACA are included in the Record of Protected Structure and subject to the appropriate policies as set out in Section 6.1.3 and Section 8.2.11.2 of the Plan.

The structures of most relevance in this instance are those immediately adjoining the application site:

- No. 40 Clarinda Park West (RPS No. 1070).
- Clarinda Park House (RPS No.1078)

General Development Management Standards:

Section 8.2.3.4(vii) refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.

Section 8.2.8.4 (i) sets out the private open space requirements for private houses. A figure of 75sq.m is acceptable for a 4-bed house in cases where good quality open space is provided.

Section 8.2.8.4 (ii) refers to separation distances and the standard garden depth of 11 metres.

Section 8.2.4.9 (i) refers to the minimum width of 3m and maximum of 3.5m required for vehicular entrances.

5.2 Architectural Heritage Protection Guidelines 2011 (DAHG)

Section 13.1.1 refers to guidance and definitions for determining the curtilage of a Protected Structure. The notion of curtilage is not defined in law, but for the purposes of these Guidelines curtilage is taken as meaning the parcel of land immediately associated with that structure and which is (or was) in use for the purpose of the structure.

Section 13.1.2 notes that the curtilage of a Protected Structure may coincide with the land owned together with it but this is not necessary and the Planning Authority should ensure in such cases that the relevant landowners are aware of the status of their structure.

Section 13.1.5 refers to the following three considerations when determining curtilage:

1. a functional connection between the structures;
2. an historical relationship between the main structure and the structure;
3. and the ownership past and present of the structures.

Section 13.2.1 refers to guidance and definitions for determining the attendant grounds of a Protected Structure. These are lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation.

5.3 Natural Heritage Designations

None of relevance.

6.0 The Appeal

6.1 Grounds of Appeal

The First Party Appeal includes revised plans and particulars and seeks to address the reasons for refusal of permission and is summarised as follows:

Reason No. 1:

- This reason for refusal is on the basis that the proposed two residential levels over the footpath along the access road to Clarinda Park House would be an obstruction to road users and result in a traffic hazard. The rationale for this reason stems from the reference in the Transportation Planning Report to materials/objects falling from windows. This is not considered a valid or reasonable ground for refusal and is not linked to public safety or traffic safety and the applicants request that the Board dismiss this reason for refusal.
- There are double yellow lines on both sides of the access road to Clarinda Park house, the access road is in the applicants' ownership and is not used for commercial purposes.
- The building does not overhang the carriageway which is c.6 metres in width. It will project over the footpath which is on private land and the applicants have no intention of looking for this to be taken in charge by the council.

Reason No. 2:

- Revised entrance proposals are submitted with the appeal for a reduced entrance with a width of 3.5 metres.
- The narrowing of the entrance has been achieved through the introduction of a low level wall (c.0.6m high) at both sides of the access, which does not adversely impact on pedestrian-car visibility splays. STOP road markings proposed and a 0.075 high speed bump across the vehicular access. The onsite parking bays have been moved c. 1 metre further into the site to accommodate ease of access and egress. A Swept Path Analysis has been carried out on the revised site access and parking arrangements.
- The gates to Clarinda Park House have been omitted and an alternative modern sign proposed.

Reason No. 3:

- The large glazed section to the south eastern elevation serving the upper floor mezzanine has been omitted and a roof light proposed to facilitate light to this area.

6.2 Planning Authority Response

The Board is referred to the previous Planner's Report as it is considered that the grounds of appeal do not raise any new matters which would justify a change of attitude towards the proposed development.

6.3 Observations

Six Observations have been received from residents of Clarinda Park ACA, Dun Laoghaire, Co. Dublin.

- Clarinda Park House Management, (c/o David Quinn, Secretary, 18 Clarinda Park House)
- Kevin Rockett, 22 Clarinda Park West.
- Patrick & Rosemary Sweetman, 28 Clarinda Park East.
- Colette Kinsley, 17 Clarinda Park West.
- An Taisce Dun Laoghaire Association.

There is an overlap and reiteration of issues throughout the Observations. Each observation is summarised below, however where repetition occurs this issue is only referred to once. Maps, photographs, examples, planning history, etc have been submitted with the Observations.

6.3.1 The Observation by **An Taisce Dun Laoghaire Association** is summarised as follows:

- Supports the Planning Authority's decision to refuse planning permission.
- The site is within a designated ACA and the relevant the policies, objectives and standards as set out in the County Development Plan apply.
- The proposed building line, materials, scale, massing, height and design is not compatible with the character of the ACA.

- The proposal would be visually disruptive to the street pattern, the balance and symmetry of the terrace would be lost. And there is no continuity in terms of boundary treatment within the ACA.
- There is a history of refusals from An Bord Pleanála for development on the application site.
- Proposal would have an overbearing impact on and overlook No. 40 Clarinda Park House.
- The proposal would have a negative impact on views and vistas within and across the ACA.
- The trees around the Square are very significant components of the streetscape and should not be removed. No Tree Report submitted and inadequate landscaping details.
- The proposal would constitute a traffic hazard as referenced in the Transportation Planning Sections Report.
- Removal of gate piers to Clarinda Park House is unacceptable. No reference in the planning application to the site being within the curtilage of a Protected Structure or within an ACA.
- The Overhanging section of the building is unacceptable as it would be dangerous for pedestrians, cause discolouration of the path and have the potential to cause an obstruction to high sided vehicles.
- Concerns that rust would run off the building and contaminate the aquatic environment.
- Changes submitted with the appeal does not address the concerns. The proposal is not compatible nor does it enhance the Clarinda Park ACA.

6.3.2 The main issues raised in the Observation by **Clarinda Park House Management** are summarised as follows:

- The curtilage of Clarinda Park House would be materially damaged by the proposed development. Opposed to the relocation of the stucco granite piers as this would undermine the mature and well expressed period heritage.

- All the adjacent houses are Protected Structures and the Clarinda Park area is zoned 'F'. Therefore, any unsuitable intrusion should be avoided in order to maintain the special quality of the streetscape.
- Disagree with the Conservations Officer's Report and recommendations.
- The proposal results in over development of the site and non-compliance with the Development Plan standards for residential developments.
- The mega-plinth at ground floor level would form an entirely inappropriate, incongruous and oppressive element. It would comprise a solid screen 20m along Clarinda Park West reading a height of 3m.
- Gate controls to access Clarinda Park House appear to be in the middle of the intended entrance.
- Request that the proposal be refused permission on 3 grounds:
Inappropriate design and siting, negative impact on the setting and character of Clarinda Park House, negative impact on the symmetry of the terraces in the ACA

6.3.2 The main issues raised in the Observation by **Kevin Rockett** are summarised as follows:

- Proposal would be an obtrusive eyesore, out of character with the area which would detract from the residential amenities of the area.

6.3.3 The main issues raised in the Observation by **Patrick & Rosemary Sweetman** are summarised as follows:

- Copy of solicitor's letter sent to the Council in relation to Planning enforcement action in relation to non-compliance with condition No. 8 of PL.06D.097902.
- Reasons for refusal are based entirely on the Transportation Planning sections recommendation, the Conservation Officers recommendations are acceptable and those of the Parks & Landscape Section ignored.
- The arguments that the integrity of Clarinda Park has been compromised in not accepted. It is a unique Square with a prominent building on one side dominating the open space, while the other 3 sides make up the

overall composition. The scale, design and siting of the proposal would destroy this composition.

- No consideration given the submissions by the Planning Authority.
- History of refusals on site referred to as PL.06D.095703 (1995), PL.06D.097902 (1996), PL. 06101118 (1997), PL.06D.109801 (1999).
- The site is not suitable for development and should be preserved as a link to Clarinda Park House.

6.3.4 The main issues raised in the Observation by **Colette Kinsley** are summarised as follows:

- Proposal before the Board is materially different from that lodged with and refused permission by the Planning Authority.
- The status of the ACA needs to be protected from the proposed brutalist, modern development which would be more relevant in an industrial or dockland setting.
- Endorse the Report from the Parks & Landscape Section.

6.3.6 The main issues raised in the Observation by **Clarinda Park Residents Association** are summarised as follows:

- The site is neglected in an attempt to make any development of it desirable to local residents.
- The applicant in their appeal have addressed the Planning Authority's Report but ignored the third party submissions.
- Minor design improvements, podium planting, entrance steps, reduction in glazing, vehicular access revision and pillar removal are set out in the appeal documentation.
- This is the 5th appeal on the site, no attempt by the applicants to address previous concerns in relation to the intrusion on the conservation area.

7.0 Assessment

The applicants have set out in detail revisions to the original design in the documentation that accompanied the appeal. I note that the scope of the design changes proposed would not require re-advertisement. The status of the gate piers is dealt with under Section 7.3.7 of this Report. This Report, therefore, is dealing with the plans and particulars lodged with the appeal.

The main issues in this appeal are those raised in the grounds of appeal which seek to address the Planning Authority's reason for refusal. Due to the nature of the site within an Architectural Conservation Area the issue of architectural heritage and design also needs to be addressed. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Traffic
- Residential Amenities.
- Architectural Heritage & Design
- Other Issues.
- Appropriate Assessment.

7.1 Traffic

7.1.1 The Planning Authority's decision to refuse permission for the proposal included two reasons relating to traffic safety. The first reason for refusal was on the grounds that the two residential floor levels over the footpath along the existing road (laneway) would endanger public safety by reason of a traffic hazard or obstruction of road users, would set an undesirable precedent and would adversely affect the use of the roadway by traffic. It is my view that this not considered a reasonable or fair reason for refusal. The Pavilion that overhangs over the footpath at a height ranging from c.1.8m to 2m, in effect bounds the access road to Clarinda Park, would not create an obstruction that could be

viewed as a traffic hazard as it does not project over the carriage way of the access road. The issue of items falling from windows, as referenced by the Transportation Planning Section does not warrant a reason for refusal.

7.1.2 I am, therefore, satisfied that the two residential levels forming the overhang would not create a traffic hazard or an obstruction to road users and the appeal should be upheld in relation to the Planning Authority's first reason for refusal.

7.1.3 The second reason for refusal relates to the width of the proposed vehicular access which could create potential hazardous manoeuvres for future vehicles entering and exiting the entrance and lack of visibility for pedestrians on the public footpath at the vehicular access. I notice that the path in question is not a public path and the speed of vehicles using this access to Clarinda Park house and the proposed development would be at a significant low speed.

7.1.4 Section 8.2.4.9 (i) of the Development Plan which sets out a maximum width for a driveway of 3.5 metres. The entrance is proposed off the access road to Clarinda Park House within a residential area. In an attempt to address the Planning Authority's concerns revised proposals have been submitted reducing this access to c. 3.5metres. A Swept Path Analysis of the revised entrance and parking was carried out and submitted with the appeal. The Planning Authority made no comment on the revised proposals. It is my considered opinion that traffic movements associated with a house are modest and the manoeuvres associated with the development would not create a traffic hazard at this location. The access and parking arrangements, are in my view, satisfactory having regard to the level of traffic and the speed of the vehicles travelling along this private access road. Having regard to the speed of vehicles using this access and the revised boundary treatment submitted I am satisfied that the issue of pedestrian visibility at the entrance has been addressed.

7.1.5 I am, therefore, satisfied that the proposal will not create a traffic hazard and the appeal should be upheld in relation to the Planning Authority's second reason for refusal.

7.2 Residential Amenity

7.2.1 The Planning Authority's third reason for refusal was on the grounds that the proposal would seriously injure the residential amenities of No. 40 Clarinda Park West due to overlooking from the large area of glazing to the south eastern elevation. The applicants have submitted proposals to address this issue by omitting the large upper floor glazed section to the mezzanine.

7.2.2 Section 8.2.8.4 (ii) of the County Development Plan refers to the usual requirements for a minimum separation distances of 22 metres between opposing rear first floor windows. The separation distance as set out in the Plan refers to opposing first floor windows which is not an issue here. The pavilion section of the proposed development is set back from the building line of No. 40 and does not face the gable window. I am also satisfied that direct overlooking of the private amenity space of No. 40 is not a significant issue due to the layout and orientation of the two properties and their relationship to each other. The proposal also complies with the minimum garden depth of 11 metres as set out in the Development Plan.

7.2.3 I am, therefore, satisfied that the proposal will not result in overlooking of No. 40 and would not seriously injure the residential amenities of this property and the appeal should be upheld in relation to the Planning Authority's third reason for refusal.

7.2.4 The Proposal complies with the standards for private open space (75 sq.m) as set out in Section 8.2.8.4 of the Development Plan. Having regard to the location of the site adjoining a public park I am of the view that the overall quality and quantity of private open amenity, which is provided in the form of a terrace, raised garden and patio area, for future residents of this dwelling would

be acceptable and not out of context given the grain of development in the area.

7.3 Architectural Heritage & Design.

- 7.3.1 A common thread through the Observations on this appeal has been the issue of Architectural Heritage, whether the proposal involves works to a protected structure and the negative impact the proposal would have on adjoining Protected Structures and the Architectural Conservation Area. This was not included in any of the Planning Authority's reasons for refusal. However due to the location of the site within an Architectural Conservation Area the matter shall be addressed in this Report.
- 7.3.2 It has been put forward by the Observers that the application site is within the curtilage of a Protected Structure (Clarinda Park House, RPS Ref. No. 1078). The site also adjoins No. 40 Clarinda Park West (RPS ref. 1070) which is part of a terrace, all of which are included in the Record of Protected Structures. I note historical maps show that the original plot of land associated with Clarinda Park House included the application site which formed part of the western entrance to the House.
- 7.3.3 The proposed development includes works to the gate piers of Clarinda Park House. There is no evidence that the applicant is aware of the status of the stucco gate piers on site which as part of Clarinda Park House benefit from its protected status. In order to address the Planning Authority's reasons for refusal the applicant in the appeal has referred to the removal of the gate piers and their replacement with a modern sign, although their protected status is not referenced in public notices. I draw the Boards attention to the requirement to include reference to the protected structure in the development description as set out in Article 18 (1) (d) (iii) of the Planning and Development Regulations 2001 as amended. Their relocation was proposed in the original application to the Planning Authority. The retention of the gate piers in situ could be dealt with by condition if the Board is of a mind to grant permission.

7.3.4 Under PL. 06D.097902 the application site was included within the site boundaries for Clarinda Park House and Condition No. 8 of PL.06D.097902 was attached which excluded a block of apartments from the application site and that this area should be retained for its sylvan character. Subsequent decisions by the Board referred to the site as within the Conservation Area but did not reference the curtilage of Clarinda Park House. Permission was refused on the grounds that development would detract from the urban setting of Clarinda Park and the setting of Clarinda Park House.

7.3.5 The Architectural Heritage Guidelines in Section 13.1.2 note that the curtilage of a Protected Structure may coincide with the land owned together with it but this is not necessary and the Planning Authority should ensure in such cases that the relevant landowners are aware of the status of their structure and Section 13.1.5 refers to the following three considerations when determining curtilage:

1. a functional connection between the structures;
2. an historical relationship between the main structure and the structure;
3. and the ownership past and present of the structures.

7.3.6 I concur with the observers that the site appears to have been originally part of a larger plot associated with Clarinda Park House and part of the site in its current form is still used as the access to Clarinda Park House apartments. There is no evidence that the applicant is aware of the status of the stucco gate piers on site which as part of Clarinda Park House benefit from its protected status. The bulk of the application site itself, however, is physically separated from the amenity space of Clarinda Park House by mature boundaries and is now in different ownership. However, as the red edge of the site includes the access to Clarinda Park House it still has functional links to the House. The location of the dwelling within what may be the former curtilage of a protected structure does not, however, preclude it from appropriate development. I

address this issue in more detail below and the impact the proposal would have on the setting of Clarinda Park House and No. 40 Clarinda Park West.

7.3.7 The bulk of the application site is physically separated from the two adjoining protected structures, Clarinda Park House and No. 40 Clarinda Park West, by mature boundaries, there are no intrinsic links between the site and these properties which are in separate ownership. In my view the siting of the proposed house within the site and the retention of mature trees will not detract from the character and setting of these protected structures. Having regard to the nature of the site and its current relationship with Clarinda Park House I am satisfied that the principle of developing this site is acceptable subject to compliance with development management standards and creates an acceptable relationship between the new dwelling and Clarinda Park House and No. 40 Clarinda Park West.

7.3.8 It is my considered opinion that the proposed infill dwelling would be of an appropriate design idiom and scale, would replace a vacant overgrown urban site, and would enhance rather than detract from the amenities of the area. I am satisfied that the overall scale, massing, form, height and design of the dwelling is satisfactory in terms of protecting the character and setting and amenities of the adjoining protected structures. I am satisfied that the proposal complies with policy Section 8.2.11.2 (iii) of the Development Plan.

7.3.9 The site is located within the Clarinda Park Architectural Conservation Area as identified in the current County Development Plan, therefore the relevant policies for ACAs apply.

7.3.10 The issue of design has also been raised in all the Observations which considered the proposal to be visually incongruous and unacceptable in terms of design, scale, height, massing and materials which would detract from the character of the ACA and contravene the Development Plan policies for development within ACAs. The Planning Authority did not include design, siting, massing, height or materials in their reason for refusal. In my view the

revision to the proposed development are minor in nature and do not constitute a material re-design.

- 7.3.11 Policy AR12 and Section 8.2.11.3 of the Development Plan outline that all development within an ACA should be site specific and take account of their context without imitating earlier styles. New developments should be 'of their time' and to the highest standards of design and where appropriate contemporary design is encouraged.
- 7.3.12 The site is sensitive due to its location within Clarinda Park Architectural Conservation Area, adjoining Clarinda Park House and No. 40 Clarinda Park West, both of which, as highlighted previously, are on the Record of Protected Structures. The applicant has attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution. There is a clear distinction between the old and the new. The effect is not to jar with the character of the existing built environment but to add a contemporary element that enhances the architectural grain of the area. This approach is generally favoured by the Architectural Heritage Guidelines for developments within Architectural Conservation Areas, especially where there is an existing mixture of styles. The Development Plan policies encourage that intervention should be of their time while also contributing to the overall character of the ACA. In this instance, I am satisfied that the proposal is an appropriate design intervention at this location as it adequately address the sensitives of the Architectural Conservation Area which is unique due the variety of house types that existing, ranging from Victorian style villas, terraced two bay two storey over basement, terraced two bay three storey over basement, end of terrace booked ends and Clarinda Park House itself. The variety of house types and the pattern of development along three sides of the Park are intrinsic to the character of the ACA, this variety lends the site suitable for a modern intervention that would contribute to and add to the narrative of the ACA while at the same time retaining its Sylvan character.
- 7.3.13 It is considered that the proposed development in terms of design, scale, provision and location of open space, boundary treatment and overall form would not detract from the architectural composition of the existing terraces and

would not form a discordant feature on the streetscape. The scale and mass is not considered overbearing, the single storey element and private amenity space bounding No. 40 Clarinda Park West addresses the transition between the different built forms. The overhanging pavilion is set back from Clarinda Park West and blends with the natural background provided by the trees which bound Clarinda Park House. In order to minimise any potential visual impact and improve the overall development to site with greater comfort within the ACA the applicant has addressed a number of the recommendations by the Conservation Officer in this appeal.

7.3.14 It is my considered opinion that the proposed infill dwelling would be of an appropriate design idiom and scale and would enhance rather than detract from the amenities of the Architectural Conservation Area. I am satisfied that the overall scale, massing, form, height and design of the dwelling is satisfactory in terms of protecting the character, setting and amenities of the nearby protected structures and the character of the Architectural Conservation Area. I am satisfied that the proposed development complies with policy AR12 and Section 8.2.11.3 of the Development Plan. The proposal would, therefore, not seriously injure the character of the ACA.

7.4 Other issues.

7.4.1 The Observers have raised concerns that the proposal requires the removal of mature, historically important trees. There are no TPOs attached to these trees, the removal of mature trees and the requirement for a tree survey and arborist Report is noted. The main trees are along the park side of the site and there are no proposals for their removal. The removal of the tree along the roadside boundary to facilitate the construction of the dwelling is noted and considered acceptable. A tree survey should be included with the landscaping plan and a condition should be attached that all trees in the south eastern corner of the site and to the north of the access road to Clarinda Park House should be protected during construction and retained.

7.4.2 In relation to the concerns relating to the possible contamination of the aquatic environment due to surface water runoff, I am satisfied that this issue can be addressed by condition.

7.5 Appropriate Assessment

7.5.1 Having regard to nature and small scale of the development and the location of the site in a fully serviced built up area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend therefore that planning permission be granted subject to the conditions as set out below.

9.0 Reasons and Considerations

Having regard to the sensitive location of the site within an Architectural Conservation Area and adjacent to protected structures, the nature, scale and design of the proposed dwelling and the provision of the Dun Laoghaire County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would integrate in a satisfactory manner with the existing built development in the area, would not detract from the character or setting of nearby Protected Structures and Clarinda Park Architectural Conservation Area, would not create a traffic hazard and would adequately protect the residential amenity of adjacent property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10. Conditions

1. 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 28th day of April, 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.

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

Reason: In the interest of protecting the character of Clarinda Park Architectural Conservation Area.

3. The developer shall submit and agree in writing with the Planning Authority amended drawings indicating the following:
 - a) Revised treatment for the external entrance steps to be agreed in writing with the Conservation Officer.
 - b) The treatment of the railings/glazed screens and the detailing of the lower level fronting onto the streetscape to be agreed in writing with the Conservation Officer
 - c) The existing granite piers for Clarinda Park House shall not be removed. Revised details showing their integration into the scheme are required.

Reason: In the interest of protecting the character of Clarinda Park Architectural Conservation Area.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

Reason: In the interest of residential amenity.

5. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
 - (a) A detailed tree Survey and Arborist Report for the entire site. All trees along the northern and south eastern portion shall be fenced off and protected during the construction of the development and shall be retained thereafter.
 - (b) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for steps, footpaths, kerbing and boundary treatments within and bounding the development;
 - (c) Proposed locations of new trees and other landscape planting in the development, including details of proposed species and settings;
 - (d) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme

Reason: In the interest of protecting the character of Clarinda Park Architectural Conservation Area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours 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.

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

Reason: In the interest of public health.

8. 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.

9. 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.

Dáire McDevitt
Planning Inspector

10th August 2017

