



An  
Bord  
Pleanála

## Inspector's Report PL29S.248938

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<b>Development</b>	Provision of new vehicular access opening and gateway in boundary wall to rear laneway.
<b>Location</b>	4 Eagle Hill Avenue, Terenure, Dublin 6w TD52
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2572/17
<b>Applicant(s)</b>	Monica Flanagan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Paul Murphy
<b>Observer(s)</b>	Rosanne Walker and Michael Moore
<b>Date of Site Inspection</b>	3 <sup>rd</sup> of October 2017
<b>Inspector</b>	Angela Brereton

## **1.0 Site Location and Description**

- 1.1.1. The application site is located at the end of a cul-de-sac in Eagle Hill Avenue, which is to the east of Terenure Road North. The two storey end of terrace property has pedestrian gateways to the front onto a pathway to Eagle Hill Avenue and also to the side onto a laneway running to the rear of nos. 1-12 Whitton Road. Eagle Hill Avenue is a short narrow cul-de-sac with parking for the seven dwellings along the avenue located to the front of nos.1-7, which is congested at times. The laneway running to the rear of nos. 1-12 Whitton Road runs along the northern boundary of the property and comprises a laneway and hard standing car parking area with narrow vehicular access from Whitton Road. It also narrows to serve no.12 Heathfield Road via its existing garage access to Whitton Lane adjacent to the proposed new vehicular access.

## **2.0 Proposed Development**

- 2.1.1. This is for the provision of a new vehicular access opening and gateway for no.4 Eagle Hill Avenue in existing boundary wall to rear laneway (Whitton Lane). This would access a new car parking space within the existing rear yard area of no.4 Eagle Hill Avenue.
- 2.1.2. Donal O'Connell, Chartered Architect has submitted a letter on behalf of the applicant providing a rationale for the proposed development. He includes letters of support from some neighbouring houses and photographs showing parking congestion on Eagle Hill Avenue.
- 2.1.3. A number of Affidavits are also included relative to the legal status and use of the right of way.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 3<sup>rd</sup> of July 2017 Dublin City Council granted permission for the proposed development subject to 7no. conditions. Condition no.2 included that the vehicular entrance shall not have outward opening gates.

## 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 noted that the proposed parking space would occupy most of the rear private open space but considered that the front garden area would provide sufficient open space remaining to serve the dwelling. Also that this is site and circumstance specific and should not be seen to set a precedent for similar development in the area. They note the parking congestion on Eagle Hill Avenue and the concerns about ownership of the laneway to the rear of Whitton Road. They noted that the Roads and Traffic Division recommended F.I. They provide that a review of the DCC GIS shows that the laneway to the rear of 1-8 Whitton Road is not in charge of DCC. They recommended that Further Information be sought to demonstrate that the applicant has sufficient legal interest and a right of way along the laneway off Whitton Road as this will provide access to the proposed new vehicular access.

### 3.2.2. Further Information response

A response has been received from Donal O'Connell, Chartered Architect which includes the following:

- The applicant acknowledges that part of the lane is in private ownership and includes a map showing a red line boundary.
- A right of way to her property has been established over the years through continuous use of the side gate to her property.
- She can further confirm that her predecessors in title since the 1940's have also used the said side access and encloses 3 Affidavits confirming same.
- The said Affidavits confirm the right of access over the laneway which will provide access to the proposed new vehicular access which adjoins the current pedestrian door located in the side wall.

### 3.2.3. Planner's response

The Planner had regard to the F.I submitted. They noted the applicant's response and the Affidavits submitted and had regard to section 34(13) relative to the planning

system not being involved in legal disputes over rights over land. They noted that the Roads and Traffic Divisions has no objection from a roads and traffic perspective to the proposed development. They considered that the proposed development is acceptable and consistent with the DCDP 2016-2022 and the proper planning and sustainable development of the area. They recommended that permission be granted subject to conditions.

### **3.3. Other Technical Reports**

#### **3.3.1. Roads, Streets & Traffic Department Road Planning Division**

They have regard to the locational context of the site, to the congestion on Eagle Hill Avenue and to the private access lane to the rear of Whitton Road. They recommended that F.I be sought to demonstrate that the applicant has sufficient legal interest and a right of way along the laneway to provide for access for the proposed new access. They noted the F.I submitted and provided that they had no objection to the proposed development from a roads and traffic perspective and recommended conditions.

#### **3.3.2. Engineering Department Drainage Division**

They have no objections subject to compliance with drainage standards and incorporation of SUDS.

### **3.4. Third Party Observations**

3.4.1. A number of Submissions have been received by or on behalf of local residents which include those to the north on Whitton Road and their concerns include the following:

- The applicant has insufficient legal interest relative to right of way along the laneway, which is private property owned by the adjoining residents in Whitton Road.
- Access to the narrow Whitton Lane is restricted with a bend on the lane. The proposal would generate additional traffic movements on the lane and would give rise to traffic hazard and congestion and reduction in sightlines.

- Traffic congestion and nuisance for adjoining properties at Whitton Lane. Adverse impact on residential amenity.
- Reduction in the number of parking spaces available to residents in Whitton Lane. Transferring the problem to Whitton Lane is not a solution consistent with the Z1 zoning objective.
- Parking management such as a pay and display system at Eagle Hill Avenue would reduce traffic congestion. Terenure Car Park is directly across the road from Eagle Hill Avenue.
- Material Contravention of the Z1 Zoning Objective. The loss of residential amenity for local residents and the loss of private garden space that would ensue would be a material reduction in residential amenity.

A number of letters in support of the application have been received from local residents in Eagle Hill Avenue, who are concerned about parking congestion.

## 4.0 Planning History

- Reg.Ref.1640/96 – Planning permission granted subject to conditions for an attic conversion, kitchen extension, garden, store and 2.7m high wall to the rear yard at no.4 Eagle Hill Avenue.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

This is the pertinent plan. As shown on Map H the site is within the Z1 Sustainable Residential Neighbourhoods where the objective is: *To protect, provide and improve residential amenities.*

Section 8.5.6 provides the policies and objectives relative to Car Parking and notes that the Standards are set out in Section 16.38.

Policy MT14 seeks: *To minimise loss of on-street car parking, whilst recognizing that some loss of spaces is required for, or in relation to, sustainable transport provision, access to new developments, or public realm improvements.*

Section 16.10 provides the Standards for Residential Accommodation and 16.10.2 relates specifically to housing. This includes regard to Private Open Space provision.

Section 16.38 provides the Car Parking Standards. Table 16.1 refers. This section also includes a presumption against the removal of on street parking.

Appendix 5 – Roads Standards for Various Classes of Development. This includes regard to off-street parking and to the Planning authority’s leaflet ‘Parking Cars in Front Gardens’.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. Two separate Third Party Appeal have been submitted from local residents and the grounds of appeal considered separately below include the following:

#### **6.1.2. Sorcha Quigley**

Dr. Diarmuid Ó Gráda, Planning Consultant has submitted a Third Party Appeal on behalf of Dr.Sorcha Quigley of no.6 Whitton Road, Terenure. This notes the context of the site, has regard to planning history and policy. The grounds of appeal include the following:

- Residents at Whitton Road are opposed to the traffic conflict arising from this proposal. The laneway is private property and the applicant has not shown adequate legal estate or interest, or written consent from a person in possession of such legal title.
- The applicant needs to show adequate legal title to undertake the proposal shown on the drawings. They provide this is a basic tenet of the planning code and refer to the Frescati (Blackrock, County Dublin) case in the 1970’s, and consider that the Council did not have adequate regard to this issue.
- They enclose a copy Deed of Assignment (December 1992) and provide details of this relative to issues of legal title. They note the map shown in red annexed hereto at the rear of nos. 1-8 Whitton Road, Terenure. They provide that the appellant is a successor in title.

- They refer to a number of such cases where the issue of sufficient legal interest was closely examined in the Inspector's Report and Board decision.
- Access to Whitton Lane is restricted and they include a drawing showing this. The carriageway is narrow and there is a sharp bend that reduces traffic sight lines at the entrance. They provide that the proposal would give rise to traffic hazard and congestion.
- The proposal would have an excessive and damaging impact on this mature residential area. An overspill of traffic congestion from Eagle Hill Avenue must be refused.
- They are concerned about the lack of display of the public notices where the public access would actually be generated at Whitton Road.
- They consider that the Council failed to distinguish between a pedestrian access and a vehicular access and that the conversion of the former to the latter would constitute a material change of use.
- They refer to Traffic congestion and the need for on-going traffic management i.e pay and display at Eagle Hill Avenue. They consider that the current proposal will only shift traffic and worsen congestion to Whitton Lane.
- They consider that an undesirable precedent for this type of development would be set to the detriment of the amenities of local residents. Transferring the nuisance over the fence is not consistent with the Z1 zoning objective.
- They consider that the removal of the applicant's private rear garden to replace with a parking space would not protect or improve amenity and would be in material contravention of the DCDP.
- They consider that the proposal would be contrary to the proper planning and development of the area and to the Z1 Residential Zoning Objective.
- The grounds of appeal are supported by the owners of nos. 2,3,4,7 and 8 Whitton Road who along with co-owners nos. 5 and 6 Whitton Road are co-owners of the lane.

### 6.1.3. John Paul Murphy

- The applicant has not shown sufficient legal interest to warrant the grant of a planning permission. The applicant has not demonstrated a right of way for vehicular access along the privately owned laneway off Whitton Road. To proceed would interfere with registered property rights.
- Title was acquired by an Indenture made of the 4<sup>th</sup> of December 1992 and they provide details of this relative to the owners of nos. 2-8 Whitton Road. They provide that their consent is needed to park or drive along this lane.
- They use this lane for parking and this part as a turning circle on the laneway.
- They have installed a system of steel security bollards, which could be used to protect their rights. Signs have been affixed to the garage doors of nos. 5 and 6 Whitton Road since 1995, opposite the subject site, displaying the message: *No parking opposite this Entrance: Access Required at all Times.*
- The claim concerning continuous, uninterrupted and open enjoyment of a right of way for vehicular access over the laneway for in excess of 19 years is not credible.
- They consider that the applicant's response to the F.I submitted including the covering letter and the affidavits does not demonstrate an established right of way for vehicular access over the relevant part of the laneway at the rear of Whitton Road.
- The reference to no.12 Heathfield Road having a garage door opening onto the laneway at the rear of Whitton Road has no relevance to the applicant's claim and could be said to further undermine it.
- They have regard to the Affidavits and consider that they refer exclusively to pedestrian access and that they do not establish a right of way for vehicular access over the laneway at the rear of Whitton Road. In this regard, they include a letter from a Solicitor dated July 1998.
- As the applicant has not shown sufficient legal interest (and, in particular, a right of way for vehicular access) and the proposed development would contravene the stated zoning objective for this lane, they ask that this appeal



be allowed. A number of photographs are included to show the parking congestion on the lane.

## 6.2. Applicants Response

6.2.1. Donal O'Connell, Chartered Architect has submitted a response on behalf of the First Party to the grounds of appeal. This includes the following:

- The applicant has an existing pedestrian access gate in her boundary wall to this laneway. This proposal is to provide her own dedicated off street parking space in her existing rear garden.
- The existing Whitton laneway to the rear serves the needs of the applicant, as well as nos.1-12 Whitton Road and no.12 Heathfield Road.
- They note that Whitton Lane is double width varying from 11.7m to the rear of no. 4 Eagle Hill Avenue to 7.7m at the furthest end of the laneway.
- Most residents of nos. 1 to 12 Whitton Road have single and/or double rear entrances and garages from Whitton Lane, so this proposal will not deprive them of car parking spaces.
- The applicant has a pedestrian entrance to Whitton Lane and the previous owner of no.4 Eagle Hill Avenue was granted permission in 1996 to increase the height of the boundary wall to 2.7m. (Reg.Ref.1690/96 refers).
- The applicant acknowledges that the lane to the rear of nos. 1-8 is in the private ownership of nos.2 to 8 Whitton Road. More specifically that part of the lane from the 90 degree bend to the rear of no.8 Whitton Road as outlined in pink (Fig.1 refers). The area shown green is not included in this private ownership.
- The use by no.12 Heathfield Road of their rear access and garage over Whitton Lane strengthens their case.
- The applicant confirms that since acquiring her property at no. 4 Eagle Hill Avenue almost 20 years ago she has continuously used the lane for pedestrian access through the existing steel door installed in the side wall to the rear of her property. Photographs are included.

- This was installed by the previous occupant of no.4 as a replacement for an existing historic low-level metal gate. It is provided that predecessors since the 1940's have used the said side access. Three Affidavits to confirm same as an access have been included.
- It is illogical to consider that the applicant would be the only resident with access to the lane who does not have a right of way over the laneway.
- Other residents served by Whitton Lane have gained a right of way/access over this side lane through continuous and longstanding use. They were not requested to submit a letter of consent from private users of the lane.
- The restricted nature of the lane remains unchanged as the applicant uses Whitton Lane on an almost daily basis to park her car outside the pedestrian gateway to her property. The proposed development will not obstruct other users or cause congestion.
- The provision of a vehicular access cannot in any way contravene the Residential Zoning Objective for the area.
- They note that the Council's decision to grant in this case. Also that they did not consider the private open space to be deficient, in this case, having regard to the amenity provided by the front garden area.
- It is particularly important for health reasons that their client has access to this space, so that she has the amenity of being able to park her car at her home.

### 6.3. Observations

6.3.1. An Observation has been received from Rosanne Walker and Michael Moore of no.2 Whitton Road. This includes:

- The applicant has no established right of vehicular access across their private property to the proposed vehicular entrance.
- The proposed entrance (for a single vehicle would reduce by two the existing no. of parking spaces at the location of the proposed access.
- The application proposes to alleviate parking problems along Eagle Avenue while exacerbating parking difficulties on the adjoining Whitton Road.

- Permission for the proposed entrance would prioritise the single parking requirement of the applicant (who asserts a pedestrian right of way) above the parking requirements of the owners of the property.

#### 6.4. **Planning Authority Response**

6.4.1. Dublin City Council has not responded to the grounds of appeal.

#### 6.5. **Further Responses**

6.5.1. Dr. Diarmuid Ó Gráda has submitted a further response on behalf of Sorcha Quigley, no.6 Whitton Road which includes the following:

- It is their opinion that the second third party includes very significant findings regarding the private ownership and the use of the parcel of land called Whitton Lane.
- Replacing 2no. parking spaces would contravene the Z1 zoning objective.
- They provide 4no. reasons and considerations relative to refusal of the proposed development. These include material contravention of the Residential Land use zoning, seriously injurious to the amenities of adjoining houses on Whitton Road, adequate legal estate or interest not been shown, traffic hazard and congestion due to the width and sharp bend on the laneway.

### 7.0 **Assessment**

#### 7.1. **Principle of Development and Planning Policy**

- 7.1.1. As shown on Map H of the Dublin City Development Plan 2016-2022, the application site is within the Z1 *Sustainable Residential Neighbourhoods* land use zoning where the Objective is: *To protect provide and improve residential amenities.*
- 7.1.2. It is proposed to provide an on-site parking space in the rear garden area of the end of terrace property no.4 Eagle Hill Avenue. This is to involve the opening up of a vehicular entrance to the party wall of the said property onto the lane to the rear of properties to the north in Whitton Road. Eagle Hill Avenue is currently a self-

contained small cul-de sac of period terraced properties, with limited on-street parking area. It is not connected and does not have pedestrian or vehicular access to the laneway to the rear of the properties in Whitton Road. While there is a long established pedestrian entrance to the rear garden of no. 4 Eagle Hill Avenue, there are no linkages from the cul-de-sac to Whitton Lane. The First Party considers that in view of the parking congestion in Eagle Hill Avenue this will provide a dedicated parking space for the applicant in their rear garden area.

- 7.1.3. The Third Party is concerned about issues of ownership, legal title, access and right of way relative to access via the private laneway to the rear of properties in Whitton Road. They also note existing parking congestion problems in Eagle Hall Avenue and are concerned that this proposal will in turn lead to traffic congestion on the laneway to the rear of properties in Whitton Road. They consider that the proposed development would be detrimental to the residential amenities of the properties with existing access to the private laneway and in material contravention of the Z1 Residential Zoning Objective. Regard is had to these issues in this assessment below.

## **7.2. Regard to Proposed Development**

- 7.2.1. The appeal site is within the small residential cul-de-sac of terraced houses in Eagle Hill Avenue located to the east of Terenure Road North. It forms part of a mature suburb that was extensively developed during the later Victorian and Edwardian eras, with later infill housing adding to the variety of residential properties here. It is a relatively dense development and there is limited private amenity space by way of rear/front garden areas. There is no on-site parking and there is an on-street parking area to the front (west) that provides a space for each of the house nos.1-7.
- 7.2.2. Permission is sought for the provision of a new vehicular access gateway with domestic roller shutter door into the existing side boundary/garden wall of no.4 Eagle Hill Avenue. As shown on the drawings it is to be 3m in width and adjacent to the existing pedestrian gateway to the site. The proposed parking space is to be sited in the rear garden area of no.4 Eagle Hill Avenue, with access to Whitton lane.
- 7.2.3. There is concern that the confined area of rear garden area would be lost. It is of note that section 7.8 of the Sustainable Residential Development in Urban Areas

2009 refers to private open space and provides: *All houses (terraced, semi-detached and detached) should have an area of private open space behind the building line.* These are statutory guidelines, section 28 of the Planning and Development Act 2000 (as amended refers).

- 7.2.4. Section 16.10.2 refers to the Residential Quality Standards for Houses and this includes regard to private open space i.e: *Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A minimum standard of 10sq.m of private open space per bedspace will normally be applied.* It is noted that a single bedroom represents one bedspace and a double bedroom two bedspaces. Also that generally up to 60-70sq.m of rear garden is considered sufficient for houses in the city.
- 7.2.5. It is noted that a single storey extension has been constructed to the rear of the dwelling house and the size of the rear garden area is already reduced and is less than the recommended standards. The current proposal to allow an on-site parking space in the rear garden area would render the existing small rear garden area almost defunct. Therefore, this proposal would be contrary to Section 16.10.2 of the DCDP 2016-2022 and Section 7.8 of the Statutory Guidelines.

### 7.3. **Regard to Legal issues**

- 7.3.1. The applicant at no.4 Eagle Hill Avenue proposes to construct a vehicular access in the party wall separating her property and the laneway. Whitton Road residents are concerned that the applicant has no right of way for vehicular access to the proposed development and would be required to cross a privately owned laneway to access any newly constructed opening. They provide that the laneway is private property and the applicant has not shown adequate legal title or interest in regard, or written consent from a person in possession of such legal title. They enclose a copy of Deed of Assignment from the adjoining residents in Whitton Road. The Third Party provide that this document including the map delineating the area shown in red clearly shows the lane is private property in the ownership of the listed people or their successors in title. While a pedestrian right of way is claimed, this does not concede a right to vehicular access or a right to gain vehicular access onto Whitton Lane.

- 7.3.2. The First Party provides that since acquiring the property at no.4 Eagle Hill Avenue she has continuously used Whitton lane for the purpose of access to and egress to the side of her property through the steel door installed in the side wall to the rear of her property. This door was installed by the previous occupant as a replacement for a low-level metal gate. Predecessors in title since the 1940's have also used this pedestrian side access. Three Affidavits have been included to confirm the right of access over the laneway to the proposed new vehicular access. Their response to the grounds of appeal includes Fig. 1 which provides a colour coded legend relative to the usage and ownership of the laneway. This provides that the laneway to the rear of nos. 2-8 Whitton Road is in the private ownership of the owners of the said properties, the portion shown green which extends to the east of the applicant's rear garden area is: *Not in the ownership of residents of Whitton Road*. Therefore, as shown on the map the applicant's property bounds that area in private ownership.
- 7.3.3. The Third Party also referred to the Supreme Court judgement in *Frascati Estates vs. Walker* [1975] I.R. 177 and the requirement that a person making an application must have sufficient legal interest or estate in the land to enable him to carry out the proposed development. The Board may consider the issue of the establishment of sufficient legal interest for right of way to gain vehicular access via the private lane to the site to be an issue in this case. It is noted that consent has not been obtained from the parties concerned. It is considered that the submissions provided by the parties demonstrate that there is a lack of clarity that the applicant has sufficient legal interest with respect to vehicular access via the private laneway to access the site, and that this may prejudice her ability to carry out the development.
- 7.3.4. However, it is also of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "A person shall not be entitled solely by reason of a permission under this section to carry out any development". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

#### 7.4. **Regard to access and impact on the character and amenities of the area**

- 7.4.1. The access from the northern part of the laneway to Whitton Road is narrow i.e. less than 3m in width, with a sharp bend to the southern wider part of the lane. It is noted that the access and northern part of the lane is too narrow for vehicles to pass. While, the lane widens up to the rear and in the vicinity of the existing parking area and the location of the subject proposal, it then narrows to the end of the lane (which does not have a turning circle or hammer head) at the rear of no.12 Heathfield Road to the east. In this respect it is provided that the width of the southern part of the lane varies between 11.5m and 7.5m. There are 11 existing vehicular entrances onto the laneway, along with a number of parking spaces on the lane. Therefore, this proposal would add an additional vehicular entrance to this area, and would be opposite a number of garage door entrances to the rear of Whitton Road. It is noted that there was a car parked in front of the area for the proposed access and an area cordoned off with removable chain link fence. The First Party provides that no intensification of use is proposed as the applicant already uses the lane to park her car outside of the existing pedestrian access to her property.
- 7.4.2. Eagle Hill Avenue is a small cul-de-sac estate of 7no. similar type houses and no.63 Terenure Road North is at the corner. There is parking for 7 cars available and one additional space appears to be available to the side of the latter. As shown on Map J of the DCDP 2016 -2022 the site is within parking area 3. Table 16.1 provides a maximum standard of 1.5 spaces for area 3. Residents in Eagle Hill Avenue are concerned that this small estate is generally overly congested, and that resident parking availability is scarce. The Third Party considers that by allowing this on-site parking space with access onto Whitton Lane, that congestion is moved to and further created on Whitton Lane. They refer to the desirability of implementing an on-going traffic management scheme for Eagle Hill Avenue i.e pay and display which they consider would improve the existing congested situation which would be an improvement of the amenities for local residents. Also noted is the availability of public transport with bus routes on Terenure Road North and the location of a public car park on the opposite side of this main road.

## **7.5. Regard to Precedent Cases**

- 7.5.1. The Third Party are concerned that a precedent would be created encouraging other nearby residents, while encroaching on the private facility for Whitton Road residents. Thus this would also allow Eagle Hill Avenue traffic to spread to Whitton Lane. There is also concern that the use of the restricted rear garden area for parking and the loss of adequate private residential open space is not a desirable precedent relative to impact on residential amenity in the Z1 Residential Zoning.
- 7.5.2. They also recall the landmark *Frascati Estates vs Walker* (1975) I.R 177 and the Supreme Court judgement therein viz, the requirement that a person making an application must have sufficient legal interest or estate in the land to enable him (or her) to carry out the proposed development. They note that there have been several cases where the issue of adequate legal interest was assessed both in the Inspector's Report and by the Board. They cite a number of such cases as precedent cases. However, each case must be considered on its merits, and the cases cited do not particularly relate to the subject scenario.

## **7.6. Appropriate Assessment**

- 7.6.1. The site is not located within or near to a Natura 2000 site. This is a fully serviced site within the urban area. Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. It is recommended that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

1. It is considered that the quantity of private open space retained to the rear of the dwellinghouse would be inadequate to provide for a sufficient level of residential amenity for the existing dwellinghouse and would be contrary to



the standards for such development as set out in Section 16.10.2 of the Dublin City Development Plan 2016-2022 and Section 7.8 of the Sustainable Residential Development in Urban Areas 2009 which are statutory guidelines as per Section 28 of the Planning and Development Act 2000 (as amended).

2. On the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the application has been made by a person who has sufficient legal estate or interest relative to the establishment of access/right of way to the proposed means of vehicular access to the site, which involves crossing a private laneway to the rear of properties 2-8 Whitton Road, or has the approval of the person(s) who has such sufficient legal estate or interest.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of planning permission for the development the subject of the application.

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Angela Brereton  
Planning Inspector

13<sup>th</sup> of October 2017