



An  
Bord  
Pleanála

## Inspector's Report ABP-302402-18

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<b>Development</b>	Development will consist of four houses, demolition of a bungalow, the improvement of the existing road access and other associated works.
<b>Location</b>	Claremont, Castleknock Road, Dublin15
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	FW18A/0075
<b>Applicant(s)</b>	Paul Tobin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Paul Tobin
<b>Observer(s)</b>	Ashleigh Residents Association
<b>Date of Site Inspection</b>	21 <sup>st</sup> November 2018
<b>Inspector</b>	L. W. Howard

## 1.0 Site Location and Description

- 1.1. The stated c.0.2ha application site is located within an established residential area within Castleknock, Co. Dublin, c.1.0km northwest of Castleknock Village. Located to the north-western side of the M50, the application site fronts directly onto the northern side of the R806 – Castleknock Road close to its junction with Park Lodge. The site is adjacent to the Ashleigh Residential Estate, located to the east.
- 1.2. The topographically ‘flat’ site is aligned on a north-easterly to south-westerly axis, and is at present occupied by a single storey detached house set back on the site. An apparent stream, runs along the western side of the site. The eastern side is defined with a hedge and wall, with the southern site boundary frontage defined with an c.1.0m high wall. Trees sporadically populate the site, and along the site boundaries.
- 1.3. A ‘right of way’ runs along the sites eastern / south-eastern lateral boundary, enabling vehicular access from the R806 – Castleknock Road, to an adjacent site of separate single house residential development located to the rear of the application site.

## 2.0 Proposed Development

- 2.1. Proposed development comprises –
  - works of stated floor area c.708m<sup>2</sup>
  - four (4no.) detached dwellinghouses as follows –
    - a bungalow – to be located at the southwestern side of the site, with the southern gable end facing onto Castleknock Road.
    - three (3no.) houses located at the rear / northeastern side of the site, located in a row, fronting onto the northern side of an internal service road,
  - an internal service road also runs along the sites south-eastern lateral boundary from the R806 - Castleknock Road, north-easterly through the

application site, and connecting with existing adjacent sites to the rear and the north-east of the site.

2.2. Specifically, the four (4no.) detached dwellinghouses are to comprise as follows –

- The proposed bungalow (1no., House Type 'A'), located at the front (ie. southwestern end) of the application site, comprises the following –
  - a single storey detached house with finished attic
  - selected brick finish to the front and sides
  - pitched roof with half hip ends
  - living room, kitchen, 2no. bedrooms and bathroom on ground floor
  - 2-bedrooms and bathroom on the attic floor
  - private open space to the rear (ie. northwest) of measured area 156m<sup>2</sup>
  
- The proposed three (3no.) houses (House Types B1 / B2) comprise the following –
  - a 2-storey detached house with finished attic
  - select brick finish to the front and sides
  - pitched roof with gable ends
  - grey concrete roof tiles
  - living room, dining room cum kitchen, and study on the ground floor
  - three bedrooms and a dressing room on the first floor
  - two bedrooms and a bathroom on the attic floor
  - private open space to the rear (ie. northeast) of a measured minimum area of 93m<sup>2</sup>, and a stated depth of 11.053m

2.3. Detailed clarification regarding the substance, composition and spatial arrangement of the proposed development on the application site, is provided by –

- the applicant as part of the planning application documentation and mapping / drawings (received by the Planning Authority dated – 05/06/2017), and subsequently in the '1<sup>st</sup> Party Appeal Submission', received by the Board dated 24/08/2018, and
- the Planning Authority in the Planning Officers 'planning report' dated 30/07/2018.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Decision to REFUSE planning permission, for Three (3no.) Refusal Reasons, addressing the following –

#### ***Refusal Reason No.1***

Threat to Public safety by way of Traffic Hazard due to intensification of use of an existing driveway, where adequate sightlines are not achievable on lands within the applicant's ownership.

Without adequate sightline visibility, accessibility to the site would be substandard, and would endanger public safety by reason of traffic hazard.

#### ***Refusal Reason No.2***

Substandard site layout and design, contrary to the 'RS' land use zoning objective, by way of –

- Visual incongruity, particularly when viewed from Castleknock Road, where the proposed bungalow does not address the road in a satisfactory manner, and
- Consistent with neighbouring developments, the site boundary should be set back from Castleknock Road to allow for future road widening proposals.

#### ***Refusal Reason No.3***

- Compliance with the principles of both Sustainable Drainage Systems (SuDS) and the GDSDS (Greater Dublin Strategic Drainage Study) Regional Drainage Policies Vol2 New Development, August 2005, has not been satisfactorily demonstrated.
- Further, no details demonstrating how the public drainage ditch is to be accessed, to allow for future maintenance.

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The key planning issues considered as follows -

### **Principle**

- the site is designated with the RS Zoning Objective - “provide for residential development and protect and improve residential amenity”.
- residential development within suburban Castleknock Road is acceptable in principle, subject to the RS Zoning Objective and “a full planning analysis”.

### **Density and Plot Ratio**

- the proposed development represents a density of 20u/ha, and a plot ratio of 0.27.
- application site is proximate to major bus and train routes.
- Planning Guidelines 19 – Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), recommend at paragraph 5.8, net densities of 50u/ha for developments proposed proximate to public transport nodes. Proposed density is “somewhat below” the guideline.
- Proposed plot ratio is also below that recommended in the ‘Residential Density Guidelines for Planning Authorities – a plot ratio of 0.35-0.5 for sites proximate to public transport.
- rather, proposed density is consistent with surrounding existing development.
- Consider that the application site area (ie. 0.2ha) allows the proposed development to assert its own density and plot ratio.

### **Layout and Design**

- proposed site layout gives rise to several serious concerns, including –
  - how the proposed development, the ‘bungalow’ in particular, visually addresses Castleknock Road,
  - lack of adequate setback from Castleknock Road,
  - how the dwellings relate to one another, including overlooking, separation distances,
  - pedestrian movement within the site,

- adequate drainage arrangements, including the need for a maintenance wayleave to the public ditch that runs along the site's north-western boundary
- these issues considered as fundamental to the layout, requiring attention. Layout therefore considered as “substandard”,
- although the architectural design and proposed external finishes of the individual house types considered as generally acceptable, the layout does give rise to “serious concerns”.

### **Visual Impact**

- Proposed development would be visually incongruous, particularly when viewed from the R806 Castleknock Road. In this view, the proposed bungalow, at 90degrees to the Road, in particular does not address the road in a satisfactory manner.
- Proposed development fails to contribute to the formation of a strong building line along the northeastern side of Castleknock Road.

### **Roads and Traffic**

- whilst on-site car parking achieved in accordance with County Development Plan 2017-2023, there are serious concerns regarding the layout and the access arrangements.
- consistent with adjacent development to the north-west, the site boundary should be set back from Castleknock Road, to allow for any future widening proposals, including accommodation of the Greater Dublin Area Cycle Network, and potential to link existing bus lanes.
- an intensification in use of an existing driveway that feeds onto Castleknock Road, would result, where required 49m sightline visibility (ie. ‘The Design Manual for Urban Roads & Streets’), does not appear to be achievable.
- Achieving the necessary sightlines would involve works outside the applicants site and ownership.
- documentation submitted does not indicate whether the applicant has sufficient interest in the adjoining lands to accommodate the required sightlines, nor is there evidence of consent for such works.

- without adequate sightlines, the proposed access would be substandard, and represent a traffic safety hazard.

### **Impact on Residential Amenity**

- **Objective DMS24**
  - Objective DMS24 requires new residential units compliance with the minimum Standards set out in Tables 12.1, 12.2 and 12.3.
  - Regarding each 'house type' proposed :
    - the Standards required by Objective DMS24 are exceeded for – 'gross floor area', 'living room m<sup>2</sup>', 'living area m<sup>2</sup>' and 'aggregate bedroom area m<sup>2</sup>',
    - The area of 'storage space m<sup>2</sup>', proposed for each 'house type', is below the Standard.
  - Given that each 'house type' is of a scale, with room sizes clearly in excess of the minimum Standards, consider that the dwellings proposed are capable of accommodating storage requirements.
- **Overbearing / Overshadowing**
  - Having regard to the proposed site layout, the type / scale of the houses, the orientation and separation distances from neighbouring properties, consider that the proposed development will not be overbearing on, or result in undue overshadowing of adjoining properties.
- **Overlooking**
  - No undue negative impact on residential amenities by way of overlooking from proposed 'House Types B1', will result. This given that the 1<sup>st</sup> floor level of 'House Types B1' at the north-eastern end of the application site are separated by 11.053m from the rear boundary wall
  - Should House Type A require further setback on site (to achieve sightlines and / or road widening), overlooking issues from House Type

B1 may arise of the rear private amenity space of the proposed bungalow. Consider this needs further clarification.

- The distance of the rear boundary from the roof light window of the bungalow is c.5.0m. Consequently, the proposed separation distances will unduly negatively impact the adjoining property located to the north-west. As this window serves a landing / corridor area, this element could be raised to above head height to avoid undue overlooking.

- Separation

- Objective DMS29 requires separation distance of 2.3m between side walls of houses.
- A separation of 2.2m is provided, generally in accordance with Objective DMS29.

- Private Open Space

- Objective DMS87 requires :
    - 60m<sup>2</sup> private open space, behind the front building line, for 3-bedroom houses,
    - 75m<sup>2</sup> private open space, behind the front building line, for houses with 4 or more bedrooms,
- Narrow strips of open space, to the side of houses, are not to be included in calculations.
- All the proposed houses have a minimum of 93m<sup>2</sup> private open space, in compliance with Objective DMS87.

- Public Open Space

- the total proposed development has a minimum public open space requirement of 200m<sup>2</sup>. No public open space has been proposed to serve the proposed development.
- Objectives DMS57A and DMS57B of County Development Plan 2017-2023 specify a minimum of 10% of the site area is designated as public open space. The applicant has not met this requirement.
- Objective DMS58 provides for a requirement of an equivalent financial contribution in lieu of open space provision in smaller developments,



where open space area generated would be so small as to be not viable.

- Noting no public open space proposed as part of the development, Council deem a special financial contribution (in accordance with Section 48(2)(C)) payable in lieu of the public open space provision.
- such a special financial contribution to be applied towards the continued upgrade of Local Class 1 Open Space facilities in the Castleknock area.

### **Water Services**

- Further Information (F.I.) required regarding –
  - the proposed surface water drainage, and
  - the location of the foul sewer and water mains provision for the proposed houses, in accordance with 'Irish Water Code of Practice' IW-CDS-5020-01 and IW-CDS-5030-03.
- Insufficient details from the applicant demonstrating compliance with the principles of each of 'Sustainable Drainage Systems (SuDS) and 'Greater Dublin Strategic Drainage Study (GSDSDS) Regional Drainage Policies Volume 2 New Development', August 2005
- GSDSDS requires that all developments be constructed to 'Taking in Charge' Standards, regardless of whether or not it is the developers intention to have it 'taken in charge'.
- Currently, the Planning Authority's 'taking in charge' policy, does not allow for permeable surfacing of the access road.
- The existing 'public drainage ditch' along the western site boundary is required to be retained. Applicant has not demonstrated how maintenance access is to be provided, nor shown a wayleave, of a minimum width of 3m for agreement with the Planning Authority.
- Having regard to the above, in particular the implications of the 3m wayleave required for boundary ditch maintenance, on the site layout, conclude that if permitted, the proposed development would contravene the relevant policies, and be contrary to the proper planning and sustainable development of the area.

### **Other Issues – Archaeology**

- There are no known archaeological monuments within a 800m radius of the application site.
- Therefore, no recommendations for archaeological mitigation are necessary.

### **Appropriate Assessment**

- Having regard to nature of proposed development, and location of the application site proximate to the nearest European site, no appropriate assessment issues arise.
- The proposed development would likely not have a significant effect individually or in combination with other plans and projects, on a European site.

### **Conclusion**

- Having regard to the ‘RS’ zoning objective, residential development considered acceptable in principle.
- However, the required sightlines cannot be achieved. Therefore the proposed development constitutes as traffic hazard.
- Several other issues arise with regard to the proposed site layout, and the achievement of Objectives, including the ‘cycle path’.
- Whilst these issues could be addressed by way of ‘Additional Information, “the necessity to overcome the traffic hazard would influence the resultant layout such that a refusal of this permission is recommended”’.

### **3.2.2. Other Technical Reports**

<u>Water Services Section</u>	Further Information (F.I.) is required
<u>Transportation Planning Section</u>	Further Information (F.I.) is required
<u>Parks Division</u>	No Objection, subject to Conditions
<u>Archaeology</u>	No archaeological mitigation recommended

### **3.3. Prescribed Bodies**

<u>Irish Water</u>	No Objection, subject to Condition
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### 3.4. Third Party Observations

3.4.1. One (1no.) submission – ‘Ashleigh Residents Association’ noted, as received.

3.4.2. The objection is framed on grounds of ‘traffic safety’. The issues argued include –

- the proposed entrance is less than 10m from a blind corner to the west approach – “a serious and dangerous hazard”.
- permission will result in increased traffic exiting the site, without an adequate traffic management plan.
- no road widening plan to eliminate the blind corner, and extend the existing bus lane from the junction with Laurel Lodge / Huntington
- Traffic exiting Ashleigh Estate have been exposed to serious traffic danger, due to limited sight of increased volumes of fast moving vehicles approaching from the west / Blanchardstown. The primary cause is the blind corner. The proposed new development would exacerbate this danger.

## 4.0 Planning History

None, with respect to the application site.

## 5.0 Policy Context

### 5.1. Fingal County Development Plan (2017-2023)

Relevant provisions incl. –

#### Ch3 Placemaking

#### 3.4 Sustainable Design and Standards

##### Residential Density

In determining densities, regard should be given to *Sustainable Residential Development in Urban Areas* (2009) and its companion document *Urban Design Manual*. The Council promotes higher densities at suitable locations such as along public transport corridors and in main town centres.

**Objective PM41** Encourage increased densities at appropriate locations whilst ensuring that the quality of place,

residential accommodation and amenities for either existing or future residents are not compromised.

### **Other Residential Development**

#### ***Infill, Corner and Backland Sites***

The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be considered for this type of development.

**Objective PM44** Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

**Objective PM45** Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

#### **Private Open Space – Residential Units**

**Objective PM65** Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements.

## **Ch11 Land Use Zoning Objectives**

### **Zoning Objective “RS” Residential**

Objective: Provide for residential development and protect and improve residential amenity.

Vision: Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

### **Use Classes related to Zoning Objective**

Permitted in Principle incl. – ‘Residential’

(see Map – Fingal Co. Dev. Plan 2017 Land Use Zoning Objectives).

## Ch12 Development Management Standards

### 12.4 Design Criteria for Residential Development

#### Separation Distances – Back to Back

- A minimum standard of 22m separation between directly opposing rear 1<sup>st</sup> floor windows shall be observed, normally resulting in a minimum rear garden depth of 11m.
- However, where sufficient alternative private open space (eg. To the side) is available, this may be reduced – subject to the maintenance of privacy and protection of adjoining residential amenities

**Objectives DMS28** Ensure a separation distance of a minimum of 22m between directly opposing rear 1<sup>st</sup> floor windows shall be observed, unless alternative provision has been designed to ensure privacy.

#### Separation Distances – Between Sides of Houses

**Objectives DMS28 and DMS29** Ensure a separation distance of at least 2.3m is provided between the side walls of detached, semi-detached and end of terrace units, in order to allow for adequate maintenance and access.

#### Daylight, Sunlight and Overshadowing

- High levels of daylight and sunlight provide for good levels of amenity for residents
- The internal layout of resident units should be designed to maximise use of natural daylight and sunlight.

**Objectives DMS30** Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight : A Guide to Good Practice (B.R.E. 1991) and B.S. 8206 Lighting for Buildings, Part 2 2008 : Code of Practice for Daylighting, or other updated relevant documents.

## 12.7 Open Space

**Private Open Space** (usually to the rear of the front building line of the house).

**Objective DMS85** Ensure private open spaces for all residential unit types are not unduly overlooked

**Objective DMS86** Ensure boundary treatment associated with private open spaces is designed to protect residential amenity and visual amenity.

### **Residential Unit Type - Houses**

**Objective DMS87** Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

3-bedroom houses or less - a min. of **60m<sup>2</sup>** of private open space located behind the front building line of the house.

Houses with 4 or more bedrooms to have a minimum of **75m<sup>2</sup>** of private open space ...

## 5.2. Natural Heritage Designations

None.

## 6.0 The Appeal – Paul Tobin (Applicant / 1<sup>st</sup> Party)

The 1<sup>st</sup> Party grounds of appeal are set out fully in the documentation dated 24<sup>th</sup> August 2018. These may be summarised as follows :

### 6.1. Preface – Clarifications and Observations :

- 6.1.1. Clarify the applicant / 1<sup>st</sup> party Appellant comprises four (4no.) people and their families, namely Paul, Mark and Michael Tobin and Gregory Crawford.
- 6.1.2. This is a 'co-operative development of four local families', all of whom are ready to build new homes on the application site.
- 6.1.3. For purposes of consistency and practicality, continue to reference Paul Tobin as the applicant /1<sup>st</sup> party appellant.

- 6.1.4. Reference ‘technical’ / ‘departmental’ reports on the planning file, which indicate request for ‘additional information’ (F.I.) and or clarification’. Notwithstanding, the Planning Authority decided not to request such, and decided to ‘refuse’ planning permission. This left the applicants no alternative, but to appeal to An Bord Pleanala.
- 6.1.5. Whilst no formal pre-planning consultation occurred, clarify that consequent of the invalidation of the wording of the original application ‘notice’, discussion over the notice and the nature of the proposed development took place.

## 6.2. Refusal Reason No.1 :

In response, several factors require consideration. These include –

- 6.2.1. The general strategic objective to widen the R806 – Castleknock / Blanchardstown Road, at this point –
- to provide space for a bus lane serving the 38 Bus inbound to the city centre, and
  - to provide safe exit from the application site.
- 6.2.2. Reference this this issue was addressed under the two previous planning applications – **F04A/1132** and **FW06A/1875** re. development of the site adjacent to the north-west of the applications site. Note reference ‘urban place map’ included within the appeal submission.
- 6.2.3. Under **F04A/1132** considerable attention given to the junction of that proposed development, with the Castleknock / Blanchardstown Road, and the setbacks required for road widening and bus corridors.
- 6.2.4. During this process, the Planning Authority requested Additional Information (F.I.) re. the junction and setbacks – reference copies of the F.I. request (04/10/2004) included within the appeal submission. Specifically at Item 1(B), the Planning Authority requested “Revised boundary details to show provision for future setbacks on adjoining properties if necessary”.

By way of response, the applicant under **F04A/1132** included a letter and drawing by Faber Maunsell, dated 04/11/2004 and received by the Planning Authority date stamped 09/11/2004. Re. Item 1(B) the letter stated – “The boundary details have been revised at the northern and southern ends of the site frontage on Castleknock Road, to facilitate possible future setbacks on adjoining lands. This is illustrated on

the enclosed Faber Maunsell A1 Drawing – 38004-002 Rev.D” (see copies both of F.I. response and Drawing – 38004-002 Rev.D included within the appeal submission).

- 6.2.5. Having regard to both of the applicants F.I. response and the Faber Maunsell A1 Drawing – 38004-002 Rev.D, in terms of which planning permission was granted under **F04A/1132** (03/12/2004), it was clearly demonstrated that sufficient set back was achieved on that site, to allow for anticipated future set backs off the Castleknock Road frontage on adjoining lands, inclusive of the current application site **FW18A/0075** (adjacent to the southeast).

Notably, Condition No.1 required that development be in accordance with the F.I. received on 09/11/2014 (ie. Faber Maunsell letter and Drawing – 38004-002 Rev.D.

- 6.2.6. Understood development granted under **F04A/1132** did not proceed, and the site took new ownership. New enlarged development was progressed by the new owner under **FW06A/1875**. The new application referred to **F04A/1132** in the development description, in regard to the junction with Castleknock Road.

Again, the Planning Authority requested F.I. from the applicant, insisting that the development be in accordance with the “Faber Maunsell A1 Drawing – 38004-002 Rev.D”. F.I. was submitted, and planning permission was granted 02<sup>nd</sup> August 2007.

- 6.2.7. Current applicant / 1<sup>st</sup> party appellant distinguish “the obvious discrepancy with what was granted and what was built (see Drawing – 38004-002 Rev.D and ‘site location plan’). Point out there is no provision to allow any setback to adjoining properties, and the configuration of the garden of house “X” is quite unlike any drawing submitted to the Planning Authority by the applicant’s under **F04A/1132** and **FW06A/1875**.

- 6.2.8. The current circumstances off site, adjacent to the northwest constitutes a hazard to the existing residents of site “A”, never mind any proposed development of the current application site.

- 6.2.9. Current applicant / 1<sup>st</sup> party appellant emphasises that if the development of the adjacent site to the northwest had been constructed in accordance with the permissions granted, and specifically with regard to setbacks, the land required for sightlines from the current application site, would now be in the ownership and or control of Fingal County Council.



6.2.10. Having assumed this was the case, applicant / 1<sup>st</sup> party appellant was surprised at the Councils 'Refusal Reason No.1' for their current development proposed under **FW18A/0075**.

6.2.11. Further discussion of issues effecting setbacks and sightlines discussed below.

### 6.3. Refusal Reason No.2 :

In response to the elements comprising Refusal Reason No.2, several factors require consideration. These include –

6.3.1. "... would be visually incongruous particularly when seen from the R806 Castleknock Road, where the proposed bungalow at 90° to the Road does not address the road in a satisfactory manner".

- Confirm several site layouts were attempted, in order to meet both the applicants brief, as well as a satisfactory layout in design terms.
- Emphasise that the position and configuration of adjacent House "X" posed challenges in achieving suitability of layout design for the application site. Apartments were ruled out as an option, as there is no position on the site where balconies would not actively overlook adjoining properties, especially House "X".
- Concluded the most optimum and suitable site layout to comprise a terrace of houses at the northern end of the application site, with a single storey house with limited 1<sup>st</sup> floor accommodation.
- Emphasis also made of the importance of backing onto House "X", noting that at present its rear boundary is open to the application site, and it lacks privacy.
- Considered that any 2-storey development that backed in would not be appropriate.
- Distinguish that the bungalow is at 90° to the road, since House "X" is similarly set out. This was considered to be appropriate.
- "Also, no set backs were shown but requests for same were expected in the planning process, we could find no drawing or map showing Council's intentions in this matter.
- Notwithstanding, the Planning Officers comments are understood, and an alternative elevation is set out in the appeal documentation. This revision

would provide a frontage to the road, whilst also giving the bungalow some privacy. Point out that the existing streetscape referenced by the Planning Officer “is at best, quite informal and the sketch below shows a modification, with the bungalow acting as a “gate lodge” to the rest of the development

- Assert the modifications to bungalow design –
  - completes the informal streetscape,
  - is not “incongruous”, and
  - meets the ‘RS’ land use zoning objective.

6.3.2. Planning Authority emphasis that the site road frontage boundary be set back, in line with adjacent development to the northwest, to allow for future road widening.

- In response, applicant provides an alternate site layout. Motivate that this site layout, will allow for adequate sightlines and road widening to allow for a bus corridor and cycle lane.
- However, distinguish that achieving this, is dependent on the Council regularising the issues on the adjoining site (understood to the northwest). In this regard state that “the Councils intentions are as yet unclear”.
- Reference the front wall of ‘Finial’ (to the southeast) is set back c.3-400mm behind “Claremont” (application site). Assume that this is the intended line of the set back.

6.3.3. Assert that upon clarity from the Planning Authority, applicant will positively consider “any reasonable further setback”.

6.3.4. The Planning Officers concerns regarding setbacks, further reinforces the traffic Sections earlier concerns regarding setbacks. These seem to have been overlooked in the development of the adjoining site.

6.3.5. Distinguish that comments made in the Planning Officers report, which did not comprise part of or substantiate the ‘Refusal’ decision, are addressed in the modified site layout, included with the appeal documentation submitted

6.3.6. Assert the Refusal reasons as insufficient. Rather, the reasonable expectation is of these “minor modifications” being addressed by way of the ‘request for further information” (F.I.) process

#### 6.4. **Refusal Reason No.3 :**

6.4.1. Assert opinion that –

- applicant has fulfilled all the requirements for SUDS,
- there will be no discharge to public surface water sewers, and
- all storm water will be dealt with on site.

6.4.2. Respond to Planning Authority reference to “the public drainage ditch” as follows –

- this is not a public drainage ditch, and
- rather, it is the track of an old watercourse, long since diverted. This is acknowledged under – **F04A/1132** and **FW06A/1875**.

6.4.3. Applicant confirms –

- a mutual agreement with the adjoining owner “to regularise the boundary between Site A and House “X””,
- arrangements “to have the old ditch filled in”, which has been done.
- commencement of process of putting up the agreed boundary fence, when it was discovered the ditch had been reopened, and was open (having been previously covered over), and
- no knowledge “as to how or why this was done and who did it”.

## 6.5. **Conclusion :**

6.5.1. Refusal Reason No.1 can be partially removed if the Planning Authority “were to follow through on their concerns for setbacks, sightlines and road widening which they ... insisted on in the planning stages of **F04A/1132** or **F06A/1875**.”

6.5.2. The remaining concerns in Refusal Reason No.1 would be met by minor adjustments to the layout to meet the issues raised in Refusal Reason No.2.

6.5.3. Refusal reason No.3 is due to a misapprehension of the nature of the old watercourse, and an unduly harsh assessment of their reasonable and practical proposals for SUDS.

## 6.6. **Planning Authority Response** (21<sup>st</sup> September 2018)

6.6.1. Having had regard to the applicant’s / 1<sup>st</sup> party appeal submission, confirm that the issues raised in the appeal documentation were fully assessed during the planning application process re. **FW18A/0075**. Reference Planning Officers report in this regard. Notwithstanding, further relevant comment submitted as below.

### 6.6.2. **Refusal Reason No.2**

- The Planning Authority has always recognised the potential of the application site for residential development.
- In response to modified site layout submitted with the appeal, the Planning Authority has no objection in principle to the alternative arrangement on site proposed to overcome Refusal No.2.

#### 6.6.3. **Refusal Reason No.1**

- Because the arrangements as submitted, are considered substandard, endangering public safety due to traffic hazard, the Planning Authority “is not in a position to enable such a development that would compromise the safety of all road users”.
- While the necessary sightlines are outside the applicants control, despite the evidence submitted, it remains unclear at this stage as to whether or not the Planning Authority currently has sufficient interest to ensure the sightlines can be achieved.
- Confirm that investigation is ongoing in this regard.
- Notwithstanding the sightline visibility issues, the Planning Authority acknowledges the applicants willingness to allow sufficient set back of the proposed development to enable the continuation of road widening in the future, to facilitate the extension of the bus lane.

#### 6.6.4. **Refusal Reason No.3**

- Planning Authority consider the status of the stream has not been sufficiently clarified.
- Should the Board be minded to grant planning permission, consider that provision be made for a sufficient wayleave to allow access for maintenance of the ditch to be undertaken and that an appropriate on-site drainage arrangements Condition be applied.

#### 6.6.5. Having regard to the above –

- request that the Board “uphold the decision to refuse permission, for the reasons given”.

- should the appeal be successful, that provision be made by way of appropriate Condition, for “applying a financial contribution in accordance with the Councils Section 48 Development Contribution Scheme”.

## 6.7. Observations

### 6.7.1. Ashleigh Residents Association (c/o G. Fanning – Chairman, 13/08/2018)

- The entrance is already a traffic hazard. Additional traffic loading from the proposed development would be seriously injurious to motorists and cyclists.
- Note the applicants / 1<sup>st</sup> party appellants
  - preparedness to accept “some form of setback from the adjoining property in Huntington (referred to as ‘Site B’), and
  - inclusion in the appeal documentation of “a revised drawing with only a small setback”.
- However, this would not be sufficient to eliminate the traffic hazard, and provide proper setback and sightlines as far as the Ashleigh estate entrance.
- Rather, this can only be achieved by way of “at least a 4m setback from the Laurel Lodge junction”, and inclusive of adjoining property known as ‘Finel’, up to the Ashleigh Estate entrance.
- A 4m setback would –
  - eliminate the blind corner,
  - provide adequate sightlines back to the junction with Laurel Lodge, and
  - allow for continuation of a bus lane connecting the existing bus lane finishing currently at laurel Lodge junction, and recommencing at Ashleigh Estate.
- While accepting that the setback portions of adjoining lands are not in the ownership of the applicants / 1<sup>st</sup> party appellants, this does not justify granting permission, as proposed.
- Assert the applicants / 1<sup>st</sup> party appellants should have been aware of the issues with respect to the application site, when making application for planning permission.
- Request the Board uphold the decision of the Planning Authority, and refuse planning permission.

## 7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development
- Visual Amenity Impact : Townscape / Streetscape
- Residential Amenity Impact
- Road Access and Traffic Safety
- Waste Water Services, Surface Water Runoff and Water Supply
- Appropriate Assessment.

### 7.2. Principle and Location of the proposed development

7.2.1. Public policy advocates that residential development driven by urban areas should take place, as a general principle, within the built-up urban areas and on lands identified through the Development Plan process, for integrated, serviced and sustainable development. In the case of the current application, this context is provided for by the Fingal County Development Plan 2017-2023, which sets out the way forward for the urban growth and development of Castleknock within Greater Dublin.

7.2.2. The site is zoned “RS – Residential”, with the objective to provide for residential development and protect and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. The “RS – Residential” zoning objective seeks to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

7.2.3. If the Fingal County Development Plan 2017-2023 is intended as providing the way forward for the proper planning and sustainable development of the area, then the application site must be regarded as being appropriately located within residentially zoned (ie: "RS") and serviced lands within Castleknock.

7.2.4. The challenge to the applicant, having regard to relevant planning history in the vicinity, to the architectural and site layout planning design, and the relevant requirements of the Fingal County Development Plan 2017-2023, is to ensure the proposed modest 4no. mixed dwelling-unit residential development, has no disproportionate adverse impact on the scale and character of existing residential development at Claremont itself, and no unacceptable impact on the amenities enjoyed by the surrounding neighbours (ie. including the 3<sup>rd</sup> party Observers).

### **7.3. Visual Amenity Impact : Townscape / Streetscape**

7.3.1. I have taken note of the established, contextual scale and pattern of residential development along the R806 Castleknock Road, passed the application site. What is clear in my view, is that as one moves along the road and referencing that most movements passed the site frontage are vehicular, no reasonable clear visibility is possible at all, of the application site – 'Claremont'.

7.3.2. In itself I believe that as illustrated in the architectural and site-layout drawings submitted as part of the planning application documentation, and accepting that the application site with stated area of c.0.2ha, allows the proposed modest development to assert its own density and plot ratio, which in my view is comparable and consistent with surrounding contextual residential development, the proposed modest four (4no.) dwellinghouse development will not be obviously noticeable from the R806 – Castleknock Road frontage.

7.3.3. I express this conviction having regard to :

- the existing significant screening characterising the entire perimeter of the site, comprising a mix of boundary walls, hedgerow and tall mature treelines (see attached photographs taken at the time of physical inspection)

- the effective replacement, in my view, of the existing bungalow on site with another bungalow, similarly positioned on site and which would provide significant screening of the proposed three (3no.) 2-storey houses aligned along the site's rear boundary,
- notwithstanding the Planning Authority's view, there being no clearly established, nor prescribed building line along the northern frontage of the R806 – Castleknock Road, with which the proposed development, particularly the proposed bungalow element, should comply.
- the absence of visual congruence currently characterising residential development along the entire northern frontage of the R806 – Castleknock Road, from Laurel Lodge to the west, passed the application site frontage, the 'Finel' property adjacent to the east comprising a large distinguished 2-storey single house on a large established property set well back from the R806 – Castleknock Road, and then the 'Ashleigh Estate' before the M50 Boundary to the east, and of which the entrance junction is the most visually prominent. In my view the Castleknock Road northern frontage comprises a mix of residential development type and density, dwelling house type, architectural design style, materials and finishes, with which I do not share the view by the Planning Authority of the proposed development as "visually incongruous".

7.3.4. From the rear, intervisibility is restricted to the rear elevations and rear yards / gardens of surrounding properties, of which there are only few, with significant screening and separation, and which appear compliant with County Development 2017 Standards. In my view, having regard to the architectural design and site layout design references clarified within the applicant's 1<sup>st</sup> party appeal submission, the proposed modest residential development will not be disproportionately visually prominent or obtrusive to adjacent and nearby residents, when viewed from the sides and rear.

7.3.5. Having regard to the architectural design and site layout details submitted, inclusive of the modifications and revisions included as part of the applicants 1<sup>st</sup> party appeal submission, the proposed modest four (4no.) dwellinghouse development all at 'Claremont', Castleknock Road, Dublin 15 would have no disproportionate impact on



the established character & streetscape of Castleknock Road generally, and of adjacent properties specifically, and subject to relevant Conditions, would be in accordance with the proper planning and sustainable development of the area

7.3.6. In my view therefore, having regard to the above, the Planning Authority's "Refusal Reason No.2" has been overcome.

#### 7.4. Residential Amenity Impact

7.4.1. Having regard to all of the information available, and particularly the revisions to the site layout, and the architectural design and onsite orientation of the proposed bungalow element, submitted by the applicant as part of the 1<sup>st</sup> party appeal documentation, and to my own observations at the time of site visit (see attached copies of photographs), I am of the view that the proposed modest 4no. dwellinghouse development will have no serious, or disproportionate negative impact on the prevailing residential amenity in the area. In this regard, I have given consideration to potential threats to residential amenity as follows :

- **Visual Obtrusion :**

See as discussed at 7.3 above.

- **Loss of Natural Light or Overshadowing :**

Having regard to the proposed site layout, the 'type' and scale of the proposed dwelling houses, the positioning, orientation and separation distances from one another within the proposed site layout and from the existing dwelling houses on neighbouring properties, no undue overshadowing with consequent loss of natural light will result.

- **Overlooking / Privacy Loss :**

Existing property and development surrounding the application site, including the 3<sup>rd</sup> party Observers at Ashleigh Estate to the northeast / east, are generally enclosed and screened from observation. Significant separation distances also exist between these surrounding properties and each element of the proposed development. In my view, no threat to the existing privacy of neighbours will result, consequent of the construction of 4no. new dwelling houses on the application site.

I have also had regard to the proposed site layout of the 4no. proposed dwelling houses and the positioning and orientation of each house on the application site. I note the applicant's substantive motivation of this as the most optimum and suitable site layout to comprise effectively of a terrace of houses at the northern end of the application site, with a single storey house to the front, with limited 1<sup>st</sup> floor accommodation. The proposed bungalow / House Type 'A' is regarded as the most vulnerable to the threat of loss of residential amenity consequent of overlooking from both the existing 2-storey single house adjacent to the west and the row of proposed 2-storey houses / House Type 'B' backed onto the rear, northern boundary of the application site.

Accordingly, having regard to the satisfactory separation distances and orientation of each dwellinghouse on site, each to be supplemented with boundary treatment and planting, no serious threat of loss of residential amenity (i.e. privacy), due to overlooking will result.

- **Noise :**

No disproportionate increase at all, above that currently characterising domestic residential use within the Castleknock Road neighbourhood, must reasonably be anticipated.

- **Private Amenity / Leisure Space :**

Both adequate and usable private amenity space has been provided to serve each of the 4no. dwelling houses proposed.

Notably, all of the proposed new dwelling houses are enabled with a minimum of 93m<sup>2</sup> private amenity space, in compliance with Objective DMS87 of County Development Plan 2017-2023. A rear private amenity area of good utility and amenity value is thereby ensured. Further, having regard to adjacent contextual residential development, I believe that no serious negative impact will result on adjacent domestic amenity spaces, in compliance with Objectives PM65 and DMS87 of County Development Plan 2017-2023.

- **Public Open Space :**

Having regard to the modest, 0.2ha application site, and the proposal to construct a correspondingly modest, 4no. dwelling house development, no 'public open space' has been proposed. I note that Section 12.7 – 'Open

Space' and Objective DMS58 of the County Development Plan 2017-2023 provides for circumstances such as this, in as much as Objective DMS58 enables the Planning Authority to require an equivalent financial contribution in lieu of 'public open space' provision, in smaller residential developments, where the public open space generated by the development would be so small as to not be viable.

I therefore accept as reasonable the Planning Authority view that a 'special financial contribution' (in accordance with Section 48(2)(c) be payable in lieu of public open space provision. Such a 'special financial contribution' to be applied towards the continued upgrade of Local Class 1 Open Space Facilities in the Castleknock area.

I am satisfied that this be addressed by way of Condition, should the Board be mindful to grant planning permission in this instance.

- **Separation Distances between Side Walls of Houses :**

Generous separation distances are retained with respect to existing residential development, as well as adequate separation between the 4no. dwelling houses proposed on the application site, in compliance with Objectives DMS28 and DMS29, enabling for adequate maintenance and access.

- **In Situ Views / Outlooks :**

No designated views exist with respect to the collection of domestic dwelling houses comprising the Castleknock Road / Ashleigh Estate neighbourhood.

- **On-Site Car Parking :**

Capacity for adequate onsite car parking space exists within each new proposed property, in compliance with County Development Plan 2017-2023 Standards (ie. 2no. spaces per property).

7.4.2. I do acknowledge the potential for negative impact of construction activity on contextual residential amenity locally, whilst site works and construction activity are on the go. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate supplementary Conditions

to a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

7.4.3. Accordingly, I believe the proposed modest 4no. dwelling house development is satisfactorily compliant with the 'RS' – Zoning Objective, and accordingly would be in accordance with the proper planning and sustainable development of the area. In my view therefore, having regard to the above in supplementation of the discussion at 7.4.3, the Planning Authority's "Refusal Reason No.2" has been overcome.

### **7.5. Road Access and Traffic Safety**

7.5.1. To facilitate the proposed development, improvements to the existing entrance onto the application site are proposed. At present, the existing entrance serves the application site and the individual properties located to the rear of the application site, accessed via a right of way along the driveway along the sites eastern, lateral boundary. I understand these arrangements are to be sustained, notwithstanding the outcome of the current application for development.

7.5.2. Of relevance, I note the County Transportation Planning Section's stated requirement that sightline visibility of 49m is required from both approaches along the R806 – Castleknock Road towards the proposed entrance (see report – 05<sup>th</sup> July 2018).

7.5.3. Clearly, having regard to the expressed opinions of all of the applicant, the Planning Authority and the 3<sup>rd</sup> party observers – the 'Ashleigh Estate Residents Association', traffic safety consequent of the intensification of use and increased traffic movements through the albeit improved existing entrance serving the application site, is a serious challenge to the feasibility of the proposed development. I share this concern.

7.5.4. Having regard to all of the applicant's drawings submitted, and to my own observations at the time of physical inspection, achieving the 49m sightlines prescribed by the County Transportation Planning Section is a significant challenge facing the applicants proposed development.

- 7.5.5. Whereas a sightline of 49m is reasonably achievable to the easterly approach, a 49m sightline is not achievable to the westerly approach along the R806 – Castleknock Road due to the horizontal road geometry and the obstruction due to the existing high boundary and pier between the application site and the existing Laurel Lodge residential estate development to the west. The County Transportation Planning Section distinguish that whilst the applicant’s drawings show a sightline of c.70m to the westerly approach, the sightline extends over adjacent 3<sup>rd</sup> party lands to the west and would be obstructed by both the proposed stone wall to the perimeter of the proposed bungalow property, and the existing hard development and soft landscaping elements characterising the southeast corner against the application site, of the adjacent Laurel Lodge residential estate. Such restriction on sightline visibility was apparent at the time of my site visit (see attached photographs).
- 7.5.6. Clearly, achieving the 49m sightline westward is dependent on either elimination of these visual obstructions, or another relevant mitigation intervention. However, each of these threats are outside the control and influence of the applicant. Certainly, any works required would not be contained within the application site, or on lands in the applicant’s ownership, or for which he has demonstrated consent from the adjacent property owner to undertake such works so as to improve sightline visibility. Having regard to the above, I am left to conclude that the 49m sightline to the western approach cannot be achieved.
- 7.5.7. Without adequate sightline visibility, the proposed access would be substandard, and represent a traffic hazard. I share the view of all of the Planning Authority, the County Transportation Planning Section and the 3<sup>rd</sup> party Observers, in this regard.
- 7.5.8. I note that the applicant does not dispute this conclusion, in the appeal submission.
- 7.5.9. However, in the 1<sup>st</sup> party appeal submission, the applicant rather appears to rely on the planning history of the adjacent site to the west / northwest under **F04A/1132** and **FW06A/1875**. I understand the adjacent Laurel Lodge Estate development was constructed consequent of this planning history of permissions granted (see attached photographs). Under each of these historical applications, the applicant correctly

references that specific focussed ‘Further Information (F.I.)’ consultations occurred towards revised road frontage boundary in order to demonstrate provision for both road widening enabling the bus lane along the northern edge of the R806 – Castleknock Road, and to show provision for future setbacks on the adjoining properties to the east, currently the application site under **FW18A/0075**.

7.5.10. The applicant emphasises that under both of these permissions granted under **F04A/1132** and **FW06A/1875**., it was clearly demonstrated to the satisfaction of the Planning Authority that sufficient set back was achieved on the adjacent site to the west along the R806 – Castleknock Road, to allow for anticipated future set backs off the Castleknock Road frontage on adjoining lands, inclusive of the current application site. In fact, specific Conditions were attached to the respective historical permission granted, ensuring such set back.

7.5.11. Of specific relevance to the current application (**FW18A/0075**), these setbacks would have clearly, positively enabled the proposed development by way of securing the required 49m sightline to the western approach.

7.5.12. However, the applicant / 1<sup>st</sup> party appellant distinguishes “the obvious discrepancy with what was granted and what was built (see Drawing – 38004-002 Rev.D and ‘site location plan’)”. The applicant points out there is “no provision to allow any setback to adjoining properties, and that the configuration of the garden of house “X” is quite unlike any drawing submitted to the Planning Authority by the applicant’s under **F04A/1132** and **FW06A/1875**”.

In this regard the applicant emphasises that the current circumstances off site, adjacent to the west constitutes a hazard to the existing residents of the application site, never mind the proposed development of the site under **FW18A/0075**.

7.5.13. He emphasises further that if the development of the adjacent site had been constructed in accordance with the permissions granted, and specifically with regard to setbacks, which were specifically Conditioned, the land required for sightlines from the proposed entrance onto the application site, would now be in the ownership and

or control of Fingal County Council. Under these circumstances action or intervention by the applicant would not be necessary.

7.5.14. Having assumed this was the case, the applicant / 1<sup>st</sup> party appellant acknowledges surprise at 'Refusal Reason No.1' for their current development proposed under **FW18A/0075**. The applicant appears to substantiate their surprise at 'Refusal Reason No.1', by asserting that if the Planning Authority "were to follow through on their concerns for setbacks, sightlines and road widening which they ... insisted on in the planning stages of **F04A/1132** and **FW06A/1875**".

7.5.15. I understand the applicants arguments on appeal to infer that whereas he has not demonstrated the necessary consent from the adjacent landowner to undertake works so as to improve sightline visibility to the required 49m, such consent in fact would not be necessary if in fact the adjacent residential estate development had been constructed in compliance with the historical permissions (**F04A/1132** and **FW06A/1875**), with consequent responsibility and actions to be taken on by the Planning Authority.

Specifically, the applicant appears to motivate that what is required is for the Planning Authority to follow through on their concerns for setbacks, sightlines and road widening insisted on, and Conditioned as part of the permissions granted under **F04A/1132** and **FW06A/1875**.

7.5.16. I understand this motivation such that rather than the applicant obtaining necessary 3<sup>rd</sup> party consents for works towards achieving the required 49m sightline, 'enforcement' action by the Planning Authority ensuring that the adjacent development complies with the historical permissions granted, would ensure the necessary sightline visibility in the applicants favour.

7.5.17. I understand the implication inferred by the applicant regarding 'Refusal Reason No.1' is such that the current proposed development, and specifically the traffic safety element associated with the proposed entrance onto and off the R806 – Castleknock Road, has become a casualty of the adjacent residential estate

development having been constructed non-compliant with the historical permissions granted on these lands (**F04A/1132** and **FW06A/1875**).

7.5.18. I understand the logic of the applicant's arguments against 'Refusal Reason No.1', and note the understandable frustration.

7.5.19. Further, I have had regard to the Planning Authority's response to the applicants 1<sup>st</sup> party appeal submission. Such that whilst the required sightlines (49m) are outside the applicants control, notwithstanding the appeal arguments and the evidence submitted, "it remains unclear at this stage as to whether or not the Planning Authority currently has sufficient interest to ensure the sightlines can be achieved".

The Planning Authority do confirm that investigation is ongoing in this regard.

7.5.20. Having regard to all of the information available, and noting that whilst the Planning Authority too, appear understanding of the applicant's arguments against 'Refusal Reason No.1', the 'de facto' reality is such that at present the required 49m sightline westward is not achievable, due to off-site obstructions out of the control of both the applicant, and understood until further notice the Planning Authority. Until a remedy is determined, the existing 'de facto' arrangements must be considered as substandard, and an endangerment to public safety due to traffic hazard. I therefore note and understand as reasonable, the Planning Authority conviction that at present, "it is not in a position to enable such a development that would compromise the safety of all road users". In my view, the increase in turning movements reasonably anticipated consequent of the proposed development, through the existing substandard vehicular entrance, would not be satisfactory from a traffic safety perspective.

7.5.21. Having regard to the horizontal alignment of the R806 – Castleknock Road in the vicinity of the proposed entrance, and to the visually restrictive boundary conditions of the adjoining lands to the west which are outside the control of the applicant, the required sightlines prescribed by the County Transportation Planning Section (ie. 49m), cannot be achieved. The proposed development would therefore endanger



public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in a westerly direction. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area

7.5.22. Having regard to all of the information available, I recommend that 'Refusal reason No.1' be sustained.

## **7.6. Waste Water Services, Surface Water Runoff and Water Supply**

7.6.1. I have had regard to the applicants foul and surface water drainage proposals, covered both in the planning application documentation, and the 1<sup>st</sup> party appeal submission.

7.6.2. Whilst taking due cognisance of the applicants 1<sup>st</sup> party appeal arguments against 'refusal reason No.3', such that the proposals fulfil all the requirements for 'Sustainable Drainage Systems – SUDS', that there will be no discharge to public surface water sewers, and that all stormwater will be dealt with on site, I am inclined to the response that on the information available, the Planning Authority, Co. Water Services Sections. And 'Irish Water' concerns which substantiated 'Refusal Reason No.3' have not been satisfactorily and clearly addressed so as to overcome 'Refusal Reason No.3'.

7.6.3. Notwithstanding the applicants 1<sup>st</sup> party appeal arguments, I believe that the Planning Authority's concerns remain, that insufficient details have been motivated by the applicant demonstrating compliance with the principles of each of the 'Sustainable Drainage Systems (SUDS) and 'Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2 New Development', August 2005.

7.6.4. Further in this regard, satisfactory compliance with the requirements that all development be constructed to 'Taking in Charge' Standards in accordance with 'GDSDS', has not been clearly demonstrated.

- 7.6.5. Whilst noting the conviction articulated by the applicant on appeal, I believe that insufficient detail demonstrating compliance has been submitted, in order to overcome 'Refusal Reason No.3'.
- 7.6.6. Further, I believe that the element of 'Refusal Reason No.3' to do with the 'public drainage ditch' along the application sites western boundary has not been satisfactorily addressed. Having regard to the applicants 1<sup>st</sup> party appeal submission, I am inclined to the view that rather than clarifying and resolving the status of this physical feature along the sites western boundary, this status has become somewhat confusing in that the applicant states clearly in the first instance that "the old ditch" has been filled in, and then concedes discovery that the ditch was open, having been previously covered over, and emphasises having no knowledge "as to how or why this was done and who did it".
- 7.6.7. Having regard to my own observations at the time of physical inspection, I confirm the existence of this physical feature, prominently along the sites western boundary (see photographs attached). In fact, from my own observations I am inclined to understand that the 'open ditch' clearly had the appearance of being recently cleared and cleaned out in accordance with good maintenance practice. Unfortunately, all parties appear at a loss as to who has been responsible for this good practice.
- 7.6.8. I further reference the following in substantiation of the need for clarification of the status of this ditch and responsibility for ongoing maintenance, if at all necessary :
- the fact that what appears as a 'drainage ditch', exists in reality along the sites western boundary,
  - the dichotomy of opinion between the Planning Authority, Water Services Section, and the applicant regarding the existence, or not, of such a ditch, and its status,

- the apparent contradiction within the applicants own arguments, with the concession that the “filled in” ditch is now open, with no knowledge “as to how or why this was done and who did it”,
- that having reference to the OSi ‘Dublin City & District Street Guide City Atlas Series – 5<sup>th</sup> Edition’, the physical feature along the sites western boundary is shown as a “water” course or stream feature,
- that at the southern end of the ditch, where it meets the southern boundary frontage of the application site with the R806 – Castleknock Road, the ditch appears sealed. Certainly, no opening or culvert or other was apparent, enabling continuous flow of water under the road, if necessary (see photograph no.22 taken at the time of physical inspection).

7.6.9. In fact, having regard to the above, I believe that the contradiction apparent in the applicants own understanding of the status of the ditch, is indicative of the need for pause and further enquiry towards determination of status and responsibility for ongoing maintenance, as set out in my understanding by ‘Refusal Reason No.3’.

7.6.10. Accordingly, having regard to all of the above, I conclude that the Planning Authority’s ‘Refusal Reason No.3’ be sustained. I recommend accordingly

## 7.7. **Appropriate Assessment**

7.7.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

8.1. I recommend that planning permission be Refused for the Reasons and Considerations set out below.

## 9.0 Reasons and Considerations

1. Having regard to the horizontal alignment of the R806 – Castleknock Road in the vicinity of the proposed entrance, and to the visually restrictive boundary conditions of the adjoining lands to the west which are outside the control of the applicant, the required sightlines prescribed by the County Transportation Planning Section (ie. 49m), cannot be achieved. The proposed development would therefore endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted in a westerly direction. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.
  
2. Having regard to the applicant's proposals for wastewater and surface water drainage, the Board is of the view that sufficient and satisfactory compliance with the principles of each of the 'Sustainable Drainage Systems (SUDS) and 'Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2 New Development', August 2005, has not been demonstrated. Further, having regard to the existing 'open ditch' along the western boundary of the application site, and the limited information available thereabout, the Board is not satisfied that sufficient clarity has been satisfactorily demonstrated by the applicant as to what this physical feature is along the site's western boundary, the status thereof, who's responsibility it is for sustained maintenance thereof and a 'management plan' therefore, including enabling possible 3<sup>rd</sup> party accessibility, if needed, to allow for such future maintenance. Accordingly, on the information available, the proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

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L. W. Howard  
Planning Inspector

21<sup>st</sup> December 2018