



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304587-19

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<b>Development</b>	Reconfiguration of / alterations to a house and extension at ground and first floor levels.
<b>Location</b>	The White House, Whitechurch Road, Rathfarnham, Dublin 16
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD19B/0095
<b>Applicant(s)</b>	Tommy Moran
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tommy Moran
<b>Observer(s)</b>	An Taisce
<b>Date of Site Inspection</b>	22 <sup>nd</sup> August 2019
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1.1. The site, which has a stated area of 0.514 hectares, is located 9km southwest of Dublin City Centre, c. 250m north of the M50, west of Marley Park. Access to the site is via Whitechurch Road. Whitechurch Road is a busy narrow route with a footpath along the western side (the side of the site) and a single white line along the centre. The site is within the urban speed limits.
- 1.1.2. The site is bounded to the west by 'Whitechurch Stream', to the north by the garden of a house, to the east by Whitechurch Road and to the south by a detached dwelling. The site comprises of a detached two-storey set in a mature landscaped setting. The site is relatively flat with a slight gradient sloping towards the western boundary and stream.
- 1.1.3. The area is predominately residential in character. There are also educational and religious uses along Whitechurch Road. Along the eastern boundary of the site there is a "Cross Base Fragment" which is a protected structure (RPS No: 352) and a recorded monument under ref. DUO22-031. The "Stone Church, School, Graveyard and Gateway" located to the west of Whitechurch Road opposite the site is a protected structure (RPS No: 354).

## 2.0 Proposed Development

- 2.1. The development will consist of the reconfiguration of/alterations to two storey house and extension at ground and first floor level to provide the following:
  - New utility room, living areas, playroom/study, master bedroom, bathroom, toilet, storage areas, circulation areas and the removal of existing porch at ground floor level; the kitchen/dining/living area to be retained at ground floor level;
  - 2 additional bedrooms, circulation areas and roof patio at first floor level; 3 existing bedrooms and 2 bathrooms to be retained at first floor level;
  - Associated alterations to/provision of windows and doors throughout and associated works at roof level;
  - Provision of decking and patio areas at ground floor level;

- A total of 6 bedrooms will be provided. The total gross floor area of the house is approx. 405.86sq.m;
- No change to the existing vehicular/pedestrian access;
- All associated site development works, services provision, landscaping/boundary treatment works.

2.1.1. An Ecological Impact Assessment, Engineers Services Report, Flood Risk Assessment and an Architectural Planning Report accompanied the planning application.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. South Dublin County Council issued notification to refuse planning permission for the following reasons:

##### **1. Green Infrastructure Policy G3- Watercourse Network Protection**

The Planning Authority has serious concerns regarding the scale of the proposed extension, particularly in the context of the Whitechurch Stream, a tributary of the Owendoher River, which runs along the rear of the property. The proposed extension will be within 6.5 metres of the bank of the Whitechurch Stream and therefore the development would result in encroachment on the stream and bank. The Whitechurch stream, a wild brown trout fishery and tributary to the Dodder an important salmonid System. Fishery habitat is regarded as particularly good for all salmonid life stages throughout the Dodder system. The Whitechurch Stream represents a valuable resource both in terms of local natural heritage (biological diversity value) and particularly for a native fisheries perspective. It is the current Development Plan Policy of the Council on Green Infrastructure; [policy G3] to promote the natural, historical and amenity value of the County's watercourses; to address the long-term management and protection of these corridors and to strengthen links at a regional level. It is also a development objective (G3 -2) to "maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case

basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network” .The proposed development would be injurious to the ecological capacity of the Whitechurch Stream would have significant potential to cause the release of sediments and pollutants into the stream, thereby impacting adversely on its ecological integrity and associated watercourses downstream. The applicant has failed to address the impacts of the proposed development on the watercourse and has not incorporated a buffer zone between the dwelling and the stream.

The proposed development would be contrary to Policy G3 of the South Dublin County Development Plan 2016 – 2022, would be contrary to G3 Objective 2, and would be contrary to the proper planning and sustainable development of the area. Failure to maintain a biodiversity protection zone of not less than 10 metres would constitute overdeveloped of the site and contravenes the zoning objectives ‘to protect and/or improve residential amenity’.

## 2. Green Infrastructure Policy G2 – Policy Green Infrastructure

The applicant has not demonstrated that the proposed development would not adversely impact on the local environment, including the Whitechurch Stream. The Whitechurch Stream is a wild brown trout fishery and tributary of the Dodder, an important salmonid system and fishery habitat that is regarded as particularly good for all salmonid life stages throughout the Dodder System.

The proposed development would result in adverse impacts on the environment, due to the following issues:

- The development would not comply with the Greater Dublin Regional Code of Practice for Drainage Works (GDSDS) volume 2;
- The development is located too close to the Whitechurch Stream and would not maintain a biodiversity protection zone of less than 10 metres from the top of the bank of the Whitechurch Stream;

- The proposed development submitted drawings scales are conflicting and therefore the Planning Authority is unable to comprehensively assess the proposal;
- There are no details submitted in relation to the outfall of surface water from the proposed development to the Whitechurch Stream;
- The landscape plan does not provide sufficient details on landscape proposals at the site;
- The Ecological Survey is insufficient as it was conducted in November 2018 which is outside the bat season;
- A suitable field conducted ecological report that includes bats, badger and invasive species is required;
- The applicant has proposed outfall surface water into the existing stream this may add pollutants to the watercourse.

The proposed development would therefore impact negatively on the Green Infrastructure network of the immediate area and downstream watercourses. Thus, the development would be contrary to policies and objectives contained within the Green Infrastructure Chapter of the South Dublin County Development Plan 2016-2022, where it is the policy (Policy 02) to:

- Secure and enhance biodiversity
- Strengthen ecological links between urban areas (Greater Dublin Water Scheme) and the wider regional Green Infrastructure network.
- Protect and enhance the biodiversity value and ecological function of the Green Infrastructure Network.
- Restrict development that would fragment or prejudice the Green Infrastructure Network.
- Promote the natural, historical and amenity value of the County's watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level, by restricting the impact of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to, the prevention of pollution of watercourses,

the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development.

The proposed development would therefore materially contravene Green Infrastructure policies G2 and objectives G2-2, G2-3 and G2-9 contained within the South Dublin County Development Plan 2016 – 2022 and would be contrary to the proper planning and sustainable development of the area.

### 3. Drainage Services

Insufficient details have been submitted in terms of the proposed surface water drainage systems, therefore it has not been demonstrated by the applicant that the proposed development is consistent with the Greater Dublin Regional Code of Practice for Drainage Works or with the Irish Water Standard. In the absence of such information, the proposed development would likely result in adverse impacts on the aquatic environment. In addition, scales are conflicting prohibiting comprehensive assessment of the site.

It is the current Development Plan Policy of the Council on Infrastructure and Environmental Quality [Policy IE Surface Water and Groundwater] 'to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive'. It is also a development plan objective (IE2-8) 'To protect salmonid water courses, such as the Liffey and Dodder Rivers catchments (including Bohernabreena Reservoir), which are recognised to be exceptional in supporting salmonid fish species, and [IE2-9] 'to protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone)'. The Whitechurch Stream is tributary of the Owendoher River, which is a tributary of the River Dodder, which in turn flows into Dublin Bay which hosts a number of Natura 2000 sites. It should be noted that the Owendoher River is the most important nursery and recruitment channel for salmonids in the Dodder system.

The proposed development would therefore materially contravene the Infrastructure and Environmental Quality policies and objectives G2-2, G2-3 and G2-9 contained

within the South Dublin County Development Plan 2016 – 2022 and would be contrary to the proper planning and sustainable development of the area.

#### 4. Ecological Considerations

Failure to submit adequate landscaping proposals and ecology assessments are considered significant as the application fails to address environmental and ecological considerations, the protection of the stream. The Ecological Impact Assessment Report is insufficient as it was conducted in November 2018 which is outside the bat season. The omission of a comprehensive Bat Survey and bat activity survey undertaken at the appropriate seasonal time and weather conditions for bats is of significant concern in this instance. Having regard to the above the deficiency in information submitted inhibits the Planning Authority to undertake a comprehensive assessment of the site in the context of the proposed works.

#### 5. Foul Water

The Planning Authority has significant concerns with regards the proposed foul water management onsite. The proposal comprises a significant increase in the overall floor area of the dwelling from 150sqm to 405sqm, with an increase in bedrooms from 3 -6 bedrooms, with an increase in number of bathrooms and WC's. The applicant has not demonstrated that the proposal would support any additional loading arising from the new extension and that the development would comply with the 2009 EPA Code of Practice Wastewater Treatment Systems Serving Single Houses. As such the proposal would contravene the Development Plan and would be prejudicial to public health and constitute an unacceptable risk of water pollution.

#### 6. Screening for Appropriate Assessment

Having regard to the nature of the proposed development, the information submitted as part of the application, and the hydrological connection to the Dublin Bay Natura 2000 sites, it is considered that insufficient information has been submitted to enable the Planning Authority to determine if there would be a likely significant effect on a Natura 2000 site.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

The Planner's Report is the basis for the Planning Authority's decision. In summary, it includes:

- The Planning Officer's report notes the zoning provisions of the area and notes the previous planning application ref. SD18B/0320 for a similar application to extend the existing house. The report sets out that the principle of the proposed residential development is acceptable.
- The report refers to previous planning application ref. SD18B/0320 and analysis's whether the current proposal has overcome the reason for refusal. It was concluded that the applicant had failed to overcome the previous reasons for refusal.

In relation to design, environment and landscape, water service, and access the report notes the following:

- The overall design approach was considered contemporary and the impact of the scale and massing in proximity to the Whitechurch Stream and protected structures to the east were raised as matters of concern.
- Reference is made to the concerns raised in the Parks and Landscape Department report regarding deficiencies in landscaping proposals, the removal of 9 mature trees, the inadequate ecology study and the proximity to the stream.
- The omission of a bat survey was considered significant.
- The proposed development has not maintained a minimum of 10m natural riparian vegetation zone.
- The efficiency of the existing wastewater treatment system to deal with the increased loading is not adequately addressed. .
- Report from the Water Services Department referenced, noting that the development failed to comply with the Greater Dublin Regional Code of Practice for Drainage Works or with the Irish Water Standard. It is noted that there is no objection to the site in respect of flood risk.
- Report from the Roads Department referenced, noting no objection to the development.



- It is set out that insufficient information was submitted to enable the Planning Authority to determine if there would be a likely significant effect on a Nature 2000 site.

Recommendation to refuse recommended on the basis that the development:-

- Contravenes the zoning objective to 'protect and /or improve residential amenity'.
- Does not maintain 10m set back from the river bank and is contrary to Green infrastructure objectives.
- Insufficient details in respect of surface water drainage systems
- Deficient information in respect of landscaping and ecology
- The bat survey was undertaken outside of the bat survey season.

### 3.2.2. Other Technical Reports

***Parks and Landscape Services/Public Realm Department*** - In their report dated 2<sup>nd</sup> May 2018 the Parks and Landscape Department set out a number of pre-development conditions:

- A comprehensive tree report to include the retention of specific trees. A tree bond is specified and supervision of works by a suitably qualified arborist.
- A revised landscaping plan is required and the services of a landscape architect to supervise the works.
- A revised ecological assessment required to include an appropriate bat survey.
- A comprehensive drainage and SUDs system layout management design and plan required.

***Water Services Department*** – In their report dated 14<sup>th</sup> April 2018 it is set out that the distance from the stream does not comply with the Greater Dublin Regional Code of Practice for Drainage Works.

***Roads Department*** - In their report dated 13<sup>th</sup> March 2019 the Roads Department raised no objection to the development.

### 3.3. Prescribed Bodies

**An Taisce** – In their submission dated 12<sup>th</sup> April 2019 An Taisce state that the extension is excessive and would have a serious impact on aspects of the church opposite, a protected structure.

**Inland fisheries** – In their submission (un-dated) Island Fisheries state that the development is too close to the stream and that insufficient details in respect of the existing wastewater treatment system have been submitted. A Construction and Environmental Management Plan is required.

**Irish Water** – In their report dated 18<sup>th</sup> April 2019 no objection raised subject to Irish Water standard details.

### 3.4. Third Party Observations

None

## 4.0 Planning History

Site

4.1.1. SD18B/0320 – Planning permission refused in 2018 for the reconfiguration of/alterations to the existing 2-storey house and extension at ground and first floor level. A summary of the 4 reasons for refusals are set out below:

1. The proposed development would be contrary to Policy G3 of the development plan and failure to meet the 10m biodiversity protection zone form Whitechurch Stream.

2. The proposed development would therefore materially contravene Green Infrastructure policies G2 and objectives G2-2, G2-3 and G2-9 contained within the South Dublin County Development Plan 2016 – 2022 and would be contrary to the proper planning and sustainable development of the area.

3. Insufficient information submitted with regards to surface water drainage.

4. Failure to submit landscaping proposals, a tree survey, Arboriculture Impact Assessment, Ecology Report, Bat survey and cross-sections.

## 5.0 Policy Context

### Development Plan

5.1.1. The relevant document is the South Dublin County Council Development Plan 2016-2022. The site is zoned 'RES' – To protect and/or improve Residential Amenity.

Relevant policies and standards of the South Dublin County Development Plan 2016-2022 include:

Section 11.3.3 (i) Extensions

Section 8.4.0 Sustainable Urban Drainage Systems

Objective IE2 Objective 5 which seeks “to limit surface water run-off from new developments through the use of Sustainable Urban Drainage Systems (SUDS) and avoid the use of underground attenuation and storage tanks”. This is reinforced in section 11.6.1 (ii) Surface Water and section 11.6.1 (iii) Sustainable Urban Drainage Systems.

5.1.2. The policies in relation to Infrastructure and Environmental Quality and Green Infrastructure are set out in Chapter 7 and Chapter 8 and including the following;

- Section 7.2.0 Surface Water & Groundwater -Infrastructure and Environmental Quality (IE), Policy 2 – Surface Water and Groundwater – It is the policy of the Council to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.
- IE2 Objective 9: To protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone).
- Section 8.2.0 Watercourses Network states *‘The County’s watercourses form a major and unique element of the Green Infrastructure network. The considered management and enhancement of watercourses and wetland areas can provide effective measures to help manage fluvial and pluvial*

*flooding whilst supporting a quality, multi-functional green network generating multiple benefits for the environment, tourism and society’.*

- Green Infrastructure policy (Policy 02) to:
  - Secure and enhance biodiversity
  - Strengthen ecological links between urban areas (Greater Dublin Water Scheme) and the wider regional Green Infrastructure network.
  - Protect and enhance the biodiversity value and ecological function of the Green Infrastructure Network.
  - Restrict development that would fragment or prejudice the Green Infrastructure Network.
  - Promote the natural, historical and amenity value of the County’s watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level, be restricting the impact of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to, the prevention of pollution of watercourses, the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development
- Green Infrastructure (G) Policy 3 refers to Watercourse Network. Objective G3 Objective 2 – Biodiversity Protection Zone.
- Green infrastructure (G) Policy 6-New Development in Urban Areas.  
G6 Objective 1: To protect and enhance existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design process.
- Section 11.6. 1 refers to WATER MANAGEMENT - (ii) Surface Water, (iii) Sustainable Urban Drainage Systems (SUDS), (iv) Groundwater

5.1.3. The polices in relation to Heritage, Conservation & Landscape are set out in Chapter 9 and including the following;

- Section 11.5.5 LANDSCAPE states with respect to Ecological Protection:  
*All development proposals shall maintain a biodiversity protection zone of not less than 10 meters from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities.*

#### 5.1.4. **National Policy and Guidelines**

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)

Greater Dublin Regional Code of Practice for Drainage Works

#### 5.2. **Natural Heritage Designations**

There are four designed sites within 7.4 km of the site.

- Wicklow Mountains SAC (Site Code 002122) is located 3.5km south of the site.
- Wicklow Mountains SPA (Site Code 004040) is located 4km south of the site.
- South Dublin Bay SAC (Site Code 000210) is located 7.4km northeast of the site.
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 7.4km northeast of the site.

### 6.0 **The Appeal**

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

6.1.1. The principle grounds of appeal can be summarised as follows:

- It is set out that the existing house is 8.7m from the bank of the Whitechurch Stream. The suggestion by SDCC that the extension is 6.5m from the stream is untrue. The shortest distance between the extension and the stream is 8 metres. The majority of the rest of the extension is 10 metres from the stream.

- It is noted that the site is hard landscaped within 4.4 metres of the stream, clearly showing that the biodiversity zone is not achieved on the site. This buffer cannot be maintained as it does not currently exist.
- It is set out that it is unreasonable to impose the 10 metres buffer zone on any existing property. It is unclear how one would determine 10 metres from the top of the bank as the top of the bank is seasonally dependent.
- Other properties in the area are within 10 metres of the bank.
- A landscaping plan has been prepared and the existing tarmacadam will be replaced by gravel to allow for sustainable surface water drainage.
- The buffer area between the stream and the house will be significantly improved through a reduction in hard landscaping and the planting of additional trees and vegetation.
- It is set out that during the construction phase there will be a trench in place to capture any sediments or pollutants which could potentially enter the stream.
- A revised civil engineering response outlining details of the outfall of surface water from the proposed development to the Whitechurch Stream is submitted to the Board in response to the decision to refuse issued by South Dublin County Council.
- A revised landscaping plan is submitted to the Board in response to the decision to refuse issued by South Dublin County Council.
- An updated Ecological Impact Assessment which includes an in-season bat survey is submitted to the Board in response to the decision to refuse issued by South Dublin County Council. The report concludes that “the project will not result in any disturbance to bat roosts and will not result in a direct loss of bat foraging habitat”.
- A field conducted ecological report that covers bats, badgers and invasive species found that there “will be no significant adverse residual effects to the ecology at and surrounding the project site are predicted to occur”.
- The extension proposal incorporates SuDs techniques in the form of Source Control (by infiltration in previous hardstanding areas) and Pollution Prevention

(by incorporating Permafilter membrane and silt trap).It is also proposed to incorporate a Permafilter geotextile below the proposed gravel surfacing and above the subbase. The geotextile is designed for hydrocarbon pollution treatment in SuDs; capturing hydrocarbons and removing pollutants by biodegradation, eliminating the need for interceptors. A silt trap will be provided within the final collection manhole before the storm water discharges in a single outfall to the Whitechurch stream.

- A screening report for Appropriate Assessment is submitted to the Board in response to the decision to refuse issued by South Dublin County Council. The report concludes that “the project will not have the potential to undermine the site-specific conservation objectives of the Wicklow Mountains SAC otter population”. “The project is not likely, along or in-combination with other plans or projects, to have a significant effect on any European Sites in view of their conservation objectives and on the basis of best scientific evidence and there is no reasonable scientific doubt to that conclusion”.
- Full details of the foul water management have been submitted. It is set out that the existing shared bio-cycle unit has the capacity for 14 occupants. Currently there are 12 occupants between the 2 dwellings utilising the treatment system. No more occupants will be using the bio-cycle as a result of the extension. The system is regularly serviced and maintained.
- In conclusion, it is set out that: -
  - Poor regard has been given to the existing development context.
  - The proposal will continue to see active residential use on the site.
  - The proposal involves no changes to the stream bed or surrounding embankments.
  - The appeal is accompanied by relevant supporting documentation.
  - The design is in keep with the existing.

#### 6.1.2. Planning Authority Response

The response of South Dublin County Council, received by An Bord Pleanála on 26<sup>th</sup> June, 2019, reiterates that the development fails to accord with the Greater Dublin

Strategic Drainage Study and Policy G3 Objective 2 of the South Dublin County Development Plan 2016 – 2019. It is clearly set out that a minimum 10 metre biodiversity protection zone from the top of the bank of the watercourse is to be maintained. It is not accurate to take a measurement of 10 metres from the centreline of the river. It is set out that the submission from Inland Fisheries outlines the importance of the protection of a 10-metre minimum natural riparian vegetation zone.

#### 6.1.3. **Observations**

**An Taisce** – In their submission dated 24<sup>th</sup> June 2019 An Taisce support the decision of South Dublin County Council to refused planning permission. The White House is high visible, and the proposed extension is excessive and inappropriate.

#### 6.1.4. **Further Responses**

None

### 7.0 **Assessment**

7.1.1. The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Siting – Proximity to Whitechurch Stream
- Impact on Ecology, biodiversity and Tress (Green Infrastructure)
- Surface Water and Waste Water Disposal
- Other Issues
- Appropriate Assessment

7.1.2. The site is located within an area zoned Z1 which seeks “To provide for and improve residential amenities.” As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.1.3. The appellant has submitted additional documentation and accompany drawings to the Board for consideration. The documentation includes an Appropriate Assessment Screening report, a revised Ecology Assessment to include a bat survey, revised landscaping and Arboricultural proposals, additional details in relation to SuD’s and



effluent disposal. The additional documentation has been considered in the assessment below.

## **7.2. Siting – Proximity to Whitechurch Stream**

- 7.2.1. The proposed development is for the construction of a 255.18sqm contemporary two-storey extension to the side of the existing 150.68sqm two storey house. The extension is sited to the south of the existing house fronting Whitechurch Road.
- 7.2.2. The site is bounded to the west by 'Whitechurch Stream' and set in a mature landscape setting surrounded by mature trees.
- 7.2.3. It is the policy of South Dublin County Council as set out in policy IE2 Objective 9 to protect water bodies and watercourses, including rivers and streams. In relation to the siting of the extension, I note section 11.5.5 LANDSCAPE of the South Dublin County Development Plan 2016-2022 establishes a 10m biodiversity protection zone from the top bank of all watercourses with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority.
- 7.2.4. The planning authority assert that the proposed development by reason of the proximity of the extension to the stream would be injurious to the ecological capacity of the Whitechurch Stream and would have significant potential to cause the release of sediments and pollutants into the stream, thereby impacting adversely on its ecological integrity and associated watercourses downstream. The Whitechurch stream, a wild brown trout fishery and tributary to the Dodder an important salmonid System. The planning authority consider that the appellant has failed to address the impacts of the proposed development on the watercourse and has not incorporated a buffer zone between the dwelling and the stream and the failure to maintain a biodiversity protection zone of not less than 10 metres would constitute overdeveloped of the site and contravenes the zoning objectives 'to protect and/or improve residential amenity'.
- 7.2.5. I note also the submission from Island Fisheries which state that the development is too close to the stream and recommends the retention of a natural riparian vegetation zone (10m minimum) free from development.
- 7.2.6. Whilst I note the linear and shallow depth of the site restricts the nature and location of any extension. Site inspection indicated that the extension is located at its closest

point approx. 6.5metres to a maximum of 8.5 metres form the bank of the stream and not 8.7m (minimum) as indicated by the appellant. Accordingly, I consider the development contrary to policy IE2 Objective 9 to protect water bodies and watercourses, including rivers and streams and section 11.5.5 LANDSCAPE of the South Dublin County Development Plan 2016-2022 which establishes a 10m biodiversity protection zone from the top bank of all watercourses.

### **7.3. Impact on Ecology, Biodiversity and Trees (Green Infrastructure)**

- 7.3.1. The planning authority assert that the appellant has not demonstrated that the proposed development would not adversely impact on the local environment, including the Whitechurch Stream and would have significant potential to cause the release of sediments and pollutants into the stream, thereby impacting adversely on its ecological integrity and associated watercourses downstream, and, in the absence of a suitable field conducted ecological report that includes bats, badger and invasive species , the planning authority could not comprehensively assess the development.
- 7.3.2. A revised Ecological Impact Assessment Report was submitted in support of the first party appeal. The assessment states that “all elements of the extension will be set back approximately 8.5m or greater form the Whitechurch Stream”. As set out above site inspection indicated that this is not the case and the bank of the stream is in fact much closer than identified by the appellant.
- 7.3.3. The Ecological Impact Assessment includes regard to habitats (including riparian), flora and fauna on site. The report sets out that best practice techniques will be employed during construction to protect the stream and trees on site, to include protective tree fencing and a temporary perimeter drain to manage construction run-off.
- 7.3.4. A field ecology survey was undertaken in May 2019, particular attention was given to identifying field signs associated with badgers and otters. A camera trap was installed to record mammal activity along the stream. Two rounds of bat surveys were carried out on site in May 2019 during daytime and at dusk. An automatic SM2 Bat Detector was left in-situ along the Whitechurch Stream to record nigh time activity. A number of protected species were recorded including Eurasian Jay, Long-eared Owl, Brown long eared Bat, Eurasian Badger and Eurasian Pygmy Shrew. The Whitechurch Stream provides a habitat for a range of species such as otters and bats (which have

been recorded in the watercourse downstream of the site). As such the stream is considered of high local ecological importance. It is also set out that the mixed broadleaved woodland towards the south of the site provides habitat structure and affords resting, breeding and foraging habitat for a variety of species.

- 7.3.5. Section 5.1 *Measures to Minimise Impacts to Habitats* of the Ecological Impact Assessment states, in addition to standard practice requirements, “no construction activity will take place within 8.5m of the Whitechurch Stream” and “All treelines bounding the project site will be retained”. However, the proposed extension is located within 8.5m of the stream and ground preparation and associated construction works, have the potential to cause the release of sediments and various pollutants into the stream. Therefore, the appellant has not demonstrated that the proposed extension will not impact on the ecology and biodiversity of the Whitechurch Stream, by virtue of the close proximity of the extension to the stream.
- 7.3.6. A Tree Survey and an Arboricultural Implication Assessment and Method Statement document was submitted with the planning application. The report recommends the removal of 8 trees, in addition to the removal of two trees to accommodate the extension works - tree. No. 32 (Silver Birch) and tree no. 34 (Willow) (Drawing title – The White House – TS-Arb Rep- 12-18). I note the tree survey drawing submitted does not correspond with the tree data table in the report in so far as some tree categories are inconsistent, tree no. 31 (Monterey Cypress) is identified as a Category A tree on the drawing submitted and a Category B1 tree in the tree data table. Furthermore, I note the concerns raised by the Parks Department in their report dated 22<sup>nd</sup> May 2019 specifying the retention of specific trees identified for removal. Green Infrastructure G6 Objective 1 of the Development Plan seeks to protect and enhance existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design process. The removal of existing trees on site shall only be carried out for sound arboricultural reasons.
- 7.3.7. The report does not include any arboricultural impact assessment save to say that two trees will be removed to accommodate the extension and notes that development works in the vicinity of tree no. 29 (Sycamore – Category B1), tree no. 30 (Horse Chestnut – Category B) and tree no. 31 (Monterey Cypress) will have to be carefully managed as these are located adjacent to the extension. In this regard, I note that the root protection area of tree no’s 29, 30 and 31 cover most of the footprint of the

extension. Therefore, any development works in this area would compromise the root protection area of these trees. The appellant has not submitted any mitigation measures to appropriately protect these trees during construction and demonstrate that these trees can be realistically retained. The line of protective fencing identified on the site layout plan does not accord with the recommended tree protection areas as set out in the tree data table.

7.3.8. I note the woodland extends from the southern site boundary along the western site boundary towards the north of the site. Any potential damage or loss of trees towards the south of the site will impact on the identified habitats as set out in the Ecology Assessment report submitted to the Board and the adjacent Green Infrastructure network. I note that tree and vegetation growth follow the path of the Whitechurch Stream towards to Dodder and any potential loss of trees has the potential to impact on this wildlife corridor. Having regard to the discrepancies and inconsistencies in the drawings and documentation submitted and in the absence of a strategic approach to the proposed development in terms of protecting the trees and biodiversity on site, I am not satisfied on the basis of the documentation submitted that the proposed development would not adversely impact on the existing mature trees on site and the Whitechurch Stream which form part of the established local ecology and biodiversity corridor.

7.3.9. I consider the proposed development would impact negatively on the Green Infrastructure network of the immediate area and would be contrary to Green Infrastructure Chapter of the South Dublin County Development Plan 2016-2022, where it is the policy (Policy 02) to:

- Secure and enhance biodiversity
- Strengthen ecological links between urban areas (Greater Dublin Water Scheme) and the wider regional Green Infrastructure network.
- Protect and enhance the biodiversity value and ecological function of the Green Infrastructure Network.
- Restrict development that would fragment or prejudice the Green Infrastructure Network.
- Green infrastructure (G) Policy 6-New Development in Urban Areas.

7.3.10. The development should be refused for this reason.

#### **7.4. Ground Water and Surface Water**

- 7.4.1. I note that the Environmental Services Section of South Dublin County Council set out that the distance from the stream does not comply with the Greater Dublin Regional Code of Practice for Drainage Works. Section 3.9.2. of the Code of Practice states that “all proposed structures must be set back from the edge of any watercourse to allow access for channel cleaning/maintenance. A 15 meters wide riparian buffer strip each side of the watercourse is required. However, in dense urban areas the width of the riparian buffer strip is to be agreed with the Local Sanitary Authority”.
- 7.4.2. It is an objective of South Dublin County Council as set out in Infrastructure and Environmental Quality (IE), Policy 2 to manage surface water and to protect and enhance ground and surface water quality. In this regard the extension proposal incorporates SuDs techniques in the form of Source Control (by infiltration in previous hardstanding areas) and Pollution Prevention (by incorporating Permafilter membrane and silt trap). It is also proposed to incorporate a Permafilter geotextile membrane below the proposed gravel surfacing and above the subbase. The geotextile is designed for hydrocarbon pollution treatment in SuDs; capturing hydrocarbons and removing pollutants by biodegradation, eliminating the need for interceptors. A silt trap will be provided within the final collection manhole before the storm water discharges in a single outfall to the Whitechurch stream. The proposal is in accordance with the principles of the Greater Dublin Strategic Drainage Study – Vol 2 by minimising direct storm water run-off from hard standing areas.
- 7.4.3. The Planning Authority has also raised concerns with regards foul water management onsite. The proposal comprises a significant increase in the overall floor area of the dwelling from 150sqm to 405sqm, with an increase in bedrooms from 3 -6 and associated increase in number of bathrooms and WC's. In the appeal submission, the appellant sets out that the existing shared bio-cycle unit has the capacity for 14 occupants. Currently there are 12 occupants between the two dwellings utilising the treatment system and the extension will not increase the number occupants. It is stated that the system was installed in 2006/2007 and is regularly serviced and maintained.

7.4.4. The current guidance relating to the disposal of domestic effluent is the 2009 EPA Code of Practice Wastewater Treatment Systems Serving Single Houses with a population equivalent  $\leq 10$ . Where development exceeds a p.e. of 10 the Waste Water Treatment Manuals Treatment Systems for Small Communities, - business, leisure centres and hotels (p.e. 10 - 500), 1999 applies. Whilst the appellant has indicated the infrastructural network on a site layout plan, no analysis of the wastewater treatment plant and associated percolation area was carried out demonstrating compliance with relevant standards. Notwithstanding, the argument that the development will not increase the demand on the wastewater treatment plant, the appellant has not demonstrated the loading capacity of the existing treatment plant and that the development would comply with the 1999 EPA Code of Practice Wastewater Treatment Systems for Small Communities. On this basis, I am not satisfied that the development would not be prejudicial to public health and constitute an unacceptable risk of water pollution, having particular regard to the location adjacent to a watercourse.

## 7.5. Other Matters

7.5.1. A site-specific **Flood Risk Assessment** was carried out. The report concludes that the site is not at risk of coastal, fluvial or Pluvial flooding. The report sets out that the site falls within flood zone C and the flood risk to the proposed development site is low. The Water Services Department raised no objection to the development in terms of flood risk.

7.5.2. I note the revised Landscape plan submitted to the Board incorporates the removal of 10 trees as per Drawing title – The White House – TS-Arb Rep- 12-18 accompanying the Arborist report. The plan includes additional species of Rowan, Hazel and Carb Appel and native woodland ground flora. Along the boundary to the Whitechurch Road it is proposed to reinforce the sylvan nature of the road by planting additional Oak, Hawthorn and Field Maple.

7.5.3. The An Taisce submission considers the extension is excessive and would have a serious impact on aspects of the “Stone Church, School, Graveyard and Gateway” located to the west of Whitechurch Road opposite the site, a protected structure (RPS No: 354). The development is for the extension of the existing house within the boundaries of the existing site. I am satisfied that the site context including the

roadside boundary wall and railing and the mature landscape setting will aid the integration of the extension, and I do not consider that the development will result in any detrimental impact on the character and setting of the protected structure.

## **7.6. Appropriate Assessment**

- 7.6.1. A screening report for Appropriate Assessment was submitted to the Board in response to refusal reason no. 6 of the decision of the planning authority.
- 7.6.2. The Stage 1 AA Screening report described the site, the location and the proposed development, it summarised the regulatory context, it carried out a desk top surveys and identified the European sites considered to fall within the zone of influence of the works. It confirmed that the proposed development would not be located within any European sites. 11 European sites within a 15k radius were identified; Wicklow Mountains SAC (Site Code 002122), Glenasmole Valley SAC (Site Code 001209), Ballyman Glen SAC (Site Code 000713), Knocksink Woods SAC (Site Code 000725), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site Code 000206), Rockabill to Dalkey Island SAC (Site Code 003000), Wicklow Mountain SPA (Site Code 004040), North Bull Island SPA (Site Code 004006), South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and Dalkey Island SPA (Site Code 004172). It described these sites and their respective qualifying habitats and species, it listed their conservation objectives and targets and attributes.
- 7.6.3. The Stage 1 AA screening report concluded that of the eleven European Sites occurring within 15km of the project, only the otter population of the Wicklow Mountain SAC was identified as occurring within the zone of influence of the project. All other sites were excluded from further assessment.

### Appropriate Assessment Screening Assessment

- 7.6.4. There is a potential link via the water environment as the drains into the Whitechurch Stream which is a tributary of the Owendoher River, which is a tributary of the River Dodder, which in turn flows into Dublin Bay which hosts a number of Natura 2000 sites including the South Dublin Bay SAC (Site Code 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), and the Wicklow Mountain SAC to the south of the site.

7.6.5. **Conservation Objectives:** to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC and SPA has been selected.

<b>European Site</b>	<b>Site Code</b>	<b>Relevant QI's and CI's</b>	<b>Distance</b>
South Dublin Bay SAC	00210	<p>The site is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake.</p> <p>Priority habits include:</p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Annual vegetation of drift lines</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Embryonic shifting dunes.</li> </ul>	7.4km northeast of the of the subject site.
South Dublin Bay and River Tola SPA	004024	<p>The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included.</p> <p>Priority habitats include:</p>	7.4km northeast of the subject site.



		<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>), Oystercatcher (<i>Haematopus ostralegus</i>), Ringed Plover (<i>Charadrius hiaticula</i>), Grey Plover (<i>Pluvialis squatarola</i>), Knot (<i>Calidris canutus</i>), Sanderling (<i>Calidris alba</i>), Dunlin (<i>Calidris alpina</i>), Bar-tailed Godwit (<i>Limosa lapponica</i>), Redshank (<i>Tringa totanus</i>), Black-headed Gull (<i>Chroicocephalus ridibundus</i>), Roseate Tern (<i>Sterna dougallii</i>), Common Tern (<i>Sterna hirundo</i>), Arctic Tern (<i>Sterna paradisaea</i>), Wetland and Waterbirds</p>	
Wicklow Mountain SAC	004063	<p>Wicklow Mountains SAC is a complex of upland areas in Counties Wicklow and Dublin, flanked by the Blessington reservoir to the west and Vartry reservoir in the east, Cruagh Mountain in the north and Lybagh Mountain in the south.</p> <p>Priority habitats and/or species include: Otter <i>Lutra lutra</i>, Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>), Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or Isoeto-Nanojuncetea, Natural dystrophic lakes and ponds,</p>	3.5km south of the subject site.

		Northern Atlantic wet heaths with European dry heaths	
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7.6.11. The potential impact in disturbance to otters as a result of construction phase or operation phase activities through noise, the presence people or through negative impacts to water quality and associated deterioration of foraging habitat is considered to be negligible and temporary. Otters are highly mobile and roam large distances within their territories and in the unlikely event of an accident or spillage during the construction phase any negative impacts will be localised and temporary to the short section of the Whitechurch Stream.

7.6.12. I am satisfied that the Wicklow Mountain SAC (side code 004063), South Dublin SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA (site code 004024), can be screened out of any further assessment given the separation distance between the building works and the Natura 2000 designated sites, the implementation of best practice methods including a temporary perimeter drain to manage construction run-off and in the absence of relevant qualifying interests in the vicinity of the works and the limited period of disturbance caused by the works.

7.6.13. I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European site, the Wicklow Mountain SAC (side code 004063), South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

I recommend that planning permission for the proposed development should be refused for the reason and considerations, as set out below.

## 9.0 Reasons and Considerations

1. The proposed development does not provide for adequate separation distance from the adjacent watercourse in accordance with Section 11.5.5 Landscape of the South Dublin County Development Plan 2016-2022. The development is

contrary to Policy IE2 Objective 9 of the South Dublin County Development Plan 2016-2022 which seeks to protect water bodies and watercourses, including rivers and streams. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proximity of the proposed extension to Whitechurch Stream and the design of the proposed extension, which is substantially within the root protection area of tree no. 29 (Sycamore – Category B1), tree no. 30 (Horse Chestnut – Category B) and tree no. 31 (Monterey Cypress), which form part of the mixed broadleaved woodland on site and provides habitat structure and affords resting, breeding and foraging habitat for a variety of species, the Board is not satisfied that the development would not impact negatively on the existing local ecology and biodiversity corridor. Accordingly, the proposed development would be contrary to Green Infrastructure policy (Policy 02) of the South Dublin County Development Plan 2016-2022. It is considered that the proposed development would, therefore be contrary to the proper planning and sustainable development of the area.
3. In the absence of an analysis of the wastewater treatment plant and associated percolation area demonstrating compliance with relevant standards, and notwithstanding the fact that the development will not increase the demand on the wastewater treatment system, the applicant has not demonstrated the loading capacity of the existing treatment system and that the development would comply with the relevant EPA Code of Practice- Wastewater Treatment Systems for Small Communities (1999). The Board is not satisfied that the development would not be prejudicial to public health and constitute an unacceptable risk of water pollution, having particular regard to the location adjacent to a watercourse.

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Irené McCormack

Planning Inspector

22<sup>nd</sup> July 2019