



An
Bord
Pleanála

Inspector's Report

ABP-307582-20

Development	Construction of a two storey house.
Location	10, Glinbury, Rathfarnham, Dublin 16
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0057
Applicant(s)	Marlis Investments Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Marlis Investments Limited
Observer(s)	None
Date of Site Inspection	5 th October 2020
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at Glinbury, a new residential estate on the western side of Whitechurch Road, some 3km south of Rathfarmham village. The estate is distinctive in character, comprising the historic grounds of Whitechurch Lodge, a protected structure, with original high stonewall boundaries, and an area of mature woodlands traversed by the River Glin (Whitechurch Stream), flowing in a northerly direction through the estate.
- 1.2. The Glinbury estate comprises 11 no. dwellings that, as noted at site inspection, are currently at an advanced stage of construction and occupation. The estate is a low density estate arranged in home zones with a mix of detached and semi-detached two storey dwellings of a modern architectural design with high quality external finishes. At the time of site inspection, works were being undertaken to Whitechurch Lodge for its renovation and subdivision into two separate dwellings.
- 1.3. The appeal site is located at the northern end of the estate and is bound to the north by a stone boundary wall, to the east by No.s. 9 and 10, the semi-detached pair of dwellings, to the south by the internal estate road, trees and open space in front of Whitechurch Lodge, and to the west by the River Glin. The site is a grassed undeveloped parcel of land which slopes in a westerly direction down towards the river.
- 1.4. The area of the site is given as 0.0585 ha and the red line boundary is broadly rectangular in shape. A blue line boundary is indicated around the immediately adjacent property to east, No. 10, and the applicant states they are the owner of same.

2.0 Proposed Development

- 2.1. The proposed development is for a detached, two storey, four bedroom dwelling and associated site works. The proposed dwelling is positioned slightly off-centre close to the eastern site boundary, set back c.7.4m from the existing front building line established by the semi-detached dwellings to the east, and c. 13.5m from the bank of the River Glin. (I note there is a discrepancy in the plans with respect to the siting of the proposed dwelling. In the site layout plan, scale 1:250 the dwelling is located

on the shared boundary, while in the ground floor plan, scale 1:100 it is west (off) the boundary. For assessment purposes, I have had regard to the latter arrangement with the side passage incorporated into the appeal site, as the ground floor plan and east elevation drawings corresponding, as this arrangement is also indicated in the revised plans and particulars included in the appeal documentation.)

- 2.2. The proposed dwelling is indicated as measuring c.228 sqm, laid out with living accommodation at ground floor level, bedrooms and bathrooms at first floor, and a terrace area serving each floor level on the western side elevation. The principal dimensions include c.6.4m in height, c.10.3m in width and c. 14m in depth. A modern design approach is used incorporating a flat roof, block elevational forms, with varying sized and positioned fenestration. The external finishes comprise a mix of render and brick.
- 2.3. The proposed dwelling is served by an area of private open space indicated as measuring 260sqm and an area of off-street car parking, both located on the western side of the site.

3.0 Planning Authority Decision

3.1. Summary of Decision

On 17th June 2020, the Planning Authority issued a Notification of Decision to Refuse Permission for 3 no. reasons that can be summarised as follows:

1. The proposed development would contravene materially Policy 3 'Protected Structures' and Objectives HCL3-1 and HCL3-2 due to failing to facilitate sensitive development within the curtilage of the protected structure, Whitechurch Lodge; and would materially contravene Condition 1 of SD15A/0211 and Condition 3 of PL06S.248229 which, through the omission of proposed dwellings, had limited the extent of development within the overall site of the protected structure.
2. Due to the height and extent of the projection along the eastern boundary, the proposed dwelling would have an adverse overbearing and overshadowing impact on the adjacent property, would injure the amenities of the properties in the vicinity and be contrary to the RES zoning objective.

3. Due to the proximity to the River Glin and the sloping nature of the site, the quality and quantum (at times of flooding) of the private open space serving the proposed dwelling are inadequate and insufficient. The proposed development does not comply with Section 11.3.1(iv), is contrary to Housing Policy 13 and to the RES zoning objective.

4.0 Planning Authority Reports

4.1. Planning Report

The planner's report is the basis for the Planning Authority decision. In addition to the matters related to the refusal reasons, the report notes, inter alia:

- The proposed dwelling is a 4 no. bedroom dwelling and accommodation standards (floor areas, room sizes etc) in respect of such houses are considered to be complied with except for private open space, as cited in the third refusal reason, and an absence of storage space;
- The proposed development is not considered to cause overlooking of adjacent properties;
- The siting of the proposed dwelling does not maintain the front and rear building lines established by the pair of semi-detached dwellings to the east. While the Planning Authority can facilitate a breach of building lines once residential amenity is protected, the overbearing and overshadowing impact of the proposed dwelling on No. 10 is considered to be too adverse; and
- Subsequent correspondence with the Surface Water Drainage section is referred to whereby a portion of the site is stated as being located in 'flood zone B and C of the OPW maps'. No copy of this correspondence is provided in the planner's report. The private open space being liable to flooding as part of the flood zones is cited within the third refusal reason.

4.2. Other Technical Reports

Architectural Conservation Officer: refusal recommended for two reasons that are amalgamated to substantially form the Planning Authority's first refusal reason.

The proposal fails to facilitate sensitive development within the curtilage of the protected structure, Whitechurch Lodge, and that the development potential of the wider lands has already been reached and as such the proposed development contravenes Condition 1 of PA Ref. SD15A/0211.

Roads: no objection.

Surface Water Drainage: no objection subject to standard conditions relating to SuDS measures, separation of surface water and foul drainage systems, and a site specific condition requiring floor levels to be a minimum of 500mm above the highest known flood level.

Parks & Landscape Services/ Public Realm: recommends conditions to be attached in respect of hard and soft landscaping design, a tree survey, existing tree protective measures, SuDs management plan, and Japanese Knotweed site survey and eradication measures.

4.3. **Prescribed Bodies**

Irish Water: no objection subject to standard condition for connection agreement, and approval required for any proposal to build over or divert existing water or wastewater services.

An Taisce: no objection subject to request that the ambiance of the Protected Structure is not affected by the works and regard is had to the 'decision of An Bord Pleanála on PA Ref. SD16A/0445'.

Inland Fisheries Ireland: no objection subject to agreement of a Construction Environmental Management Plan for the proposed development, and should works be involved to the bridge, a design method statement should be agreed with the contractor.

4.4. **Third Party Observations**

None received by the Planning Authority.

5.0 Planning History

Appeal Site

PA Ref. SD16A/0445, PL06S.248229 – Permission sought by Heatherbrook Homes for the refurbishment, extension and subdivision of Whitechurch Lodge into 2 no. dwellings (referred to as No.s 1 and 2), 5 no. dwellings, 4 no. in a terrace row of houses (No.s 3-6) and 1 no. detached dwelling (No. 7) on the western side of the River Glin, demolition of sheds, boundary realignment, access roads and associated development works.

An Bord Pleanála issued a split decision on the 8th November 2017, granting the subdivision of Whitechurch Lodge into two separate dwellings, unit No.s 3 and 4 as a semi-detached pair and unit No. 7 (this permission is currently being implemented on site); and refusing unit No.s 5 and 6 of the terrace row. Unit No.s 5 and 6 were located on lands proximate to the current appeal site.

16 no. conditions are attached to the grant permission, including Condition 3 which states that unit numbers 5 and 6 are omitted, and unit numbers 3 and 4 shall form a semi-detached pair.

Permission for unit numbers 5 and 6 was refused for one reason as follows:

‘Having regard to the locational context and planning history of the subject site within the curtilage of a Protected Structure, it is considered that the proposed development of unit numbers 5 and 6 by reason of siting, scale, height, design and layout, and in particular the impact on landscape and mature trees and the setting of the attendant grounds, would constitute development which would appear overly dominant and piecemeal and detract from the character and setting of the Protected Structure, and would, therefore, be contrary to Policy 3 ‘Protected Structures’ and Objectives HCL3-1 and HCL3-2 and Policy 6 ‘Green Infrastructure - New Development in Urban Areas’ and Objective G6-1 of the South Dublin County Council Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’

PA Ref. SD15A/0221 – Permission sought by Heatherbrook Homes for 9 no. detached dwellings, change to existing entrance, new accesses, demolition of sheds,

new boundary treatments, associated site development works, landscaping and associated service provision.

Planning Authority granted permission for 7 no. dwellings, following revisions through FI, with a final grant date of 11th April 2016. 2 no. dwellings were omitted from the northern area of the site, one on either side of the River Glin. This includes Dwelling No. 8, which was located on lands proximate to the current appeal site.

17 no. standard conditions are attached to the permission, including Condition 1 which specifies that 7 no. dwellings are permitted.

PA Ref. SD 17A/0183 – permission granted for a revised site layout plan with a reduction of 1 no. dwelling from 7 no. dwellings to 6 no. dwellings. The final grant date was 18th September 2017, and this has been implemented.

6.0 Policy Context

6.1. Development Plan

The applicable development plan is the *South Dublin Development Plan 2016-2022*. The appeal site is located on lands that are zoned as Objective RES, Existing Residential, with the stated objective '*To protect and/ or improve residential amenity*'.

The appeal site is located within the curtilage of Protected Structure RPS Ref. 338 Whitechurch Lodge, described in Schedule 2: Record of Protected Structures as a 'Two Storey Georgian Style House'.

6.1.1. Heritage, Conservation and Landscape Policy

Section 9.1.2 Protected Structures details the importance and value of the County's architectural buildings, structures and sites including their curtilages, and contains Policy HCL3.

Heritage, Conservation and Landscapes (HCL) Policy 3 Protected Structures states it is Council policy '*to conserve and protect buildings, structures and sites contained in the Record of Protected Structures and to carefully consider any proposals for development that would affect the special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.*'

Policy HCL3 contains Objectives 1 and 2 which, respectively, seeks the protection of all structures on the RPS and their immediate surroundings including their curtilages and attendant grounds; and seeks to ensure that development proposals affecting a protected structure are sympathetic to its special character and integrity, and are generally appropriate.

6.1.2. Residential Consolidation Policy

Section 2.4.0 Residential Consolidation advocates the benefits of facilitating infill development to achieve sustainable intensification in residential areas, and includes Policy H17.

Housing (H) Policy 17 Residential Consolidation states it is Council policy ‘to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County’.

Policy H17 contains Objective 2 which seeks to maintain and consolidate the County’s housing stock through house subdivision, backlands development and infill development subject to safeguards and standards included in Chapter 11. Of relevance from Section 11.3.2 includes the following sub-items:

11.3.2 Residential Consolidation (i) Infill Sites

‘Development on infill sites should meet the following criteria:

- *Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual.*
- *... On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes....*
- *Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.*

6.1.3. Residential Development Quality Policy

Section 2.3.0 Quality of Residential Development outlines the requirements for new residential development, and contains Policy H13.

Housing (H) Policy 13 Private and Semi-Private Open Space states it is the Council's policy *'to ensure that all dwellings have access to high quality private open space (inc. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments.'*

Policy H13 contains Objective 3 which requires private amenity space for houses to meet certain quantitative and qualitative standards. These standards are outlined, for the most part, in **Section 11.3.1 (iv) Dwelling Standards** which indicates that minimum floor areas and private open space for a 3 no. bedroom house are 92 sqm and 60 sqm, and for a 4 no. + bedroom house are 110 sqm and 70 sqm respectively. In relation to the quality of private open space, this subsection adds it should be located behind the front building line of the house and be designed to provide for adequate private amenity.

6.1.4. Green Infrastructure Policy

Section 8.5.0 Green Infrastructure within Urban Areas details the importance and value of the County's green infrastructure networks, and the benefits arising from greening urban areas for creating attractive spaces, improving people's health, contributing to local distinctiveness, and contains Policy G6.

Green Infrastructure (G) Policy 6 New Development in Urban Areas states it is Council policy *'to support the protection and enhancement of Green Infrastructure in all new development in urban areas, to strengthen Green Infrastructure linkage across the wider urban network and to achieve the highest standards of living and working environments.'*

Policy G6 contains Objective 1 which seeks the protection and enhancement of existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design process.

6.2. Natural Heritage Designations

The appeal site is not located in or near to any European site, proposed Natural Heritage Area or Natural Heritage Area.

6.3. Environmental Impact Assessment Screening

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- Refutes that the proposed development is a material contravention of the RES zoning objective or of Objectives HCL3-1 and HCL3-2;
- Rejects the argument that Condition 1 and Condition 3 of PA Ref. SD15A/0221 and PA Ref. SD16A/0445, PL96S.248229 respectively were attached to restrict the wider site's future development capacity;
- States that in the latter decision, the Board omitted 2 no. units from the terrace row due to 'their overly dominant impact when viewed from Whitechurch Lodge and its attendant grounds', not due to any issue relating to excessive density in the estate;
- Submits that the development strategy prepared for the wider site under PA Ref. SD15A/0221 is relevant to the current appeal;
- Highlights that a Conservation Statement is included in the appeal documentation which concludes that the proposed development causes no further impact on Whitechurch Lodge and its grounds;

- States that the proposed development is required to enclose the now-constructed pair of semi-detached dwellings on the eastern side of the river, to establish a visual relationship with the detached house on the western side of the river, and add legibility across the housing zones;
- States the proposed dwelling as originally proposed is acceptable and considers that no overshadowing is caused to the adjacent property No. 10;
- However, to address any overbearing impact, submits revised plans and particulars of the proposed dwelling for the Board's determination indicating a reduction in floorspace and associated principal dimensions at first floor level;
- Includes a Shadow and Daylight Analysis of the revised proposed dwelling demonstrating minimal impacts on the adjacent properties;
- Does not accept that proposed development does not comply with the standards included in Section 11.3.1(iv) or that it is contrary to Policy H13;
- States that the usable levelled surface of private open space is 144sqm which is well in excess of the Development Plan standards, and that the Landscape Plan included in the appeal documentation indicates that the garden space is not in the flood zone of the River Glin.

7.2. **Planning Authority Response**

The Planning Authority has responded to the appeal confirming its decision to refuse permission and stating that the issues raised in the appeal were covered in the planner's report.

No comment is made on the revised drawings of the proposed dwelling, nor the detailed landscape plan with flood plain information.

7.3. **Observations**

None.

8.0 **Assessment**

I consider the main issues in determining this appeal are as follows:

- Planning History
- Architectural Heritage
- Residential Amenity

8.1. Planning History

- 8.1.1. The Glinbury residential estate as permitted, and currently at an advanced stage of construction and occupation, comprises 11 no. dwellings. The dwellings are located throughout the wider site, which are the lands that were originally associated with and formed the curtilage of Whitechurch Lodge.
- 8.1.2. The development of the estate has been in two stages, including 6 no. detached houses in the southern portion of the wider site on foot of PA Ref. SD15A/0221, and 5 no. dwellings in the northern portion on foot of PA Ref. SD16A/0445, PL06S.248229. Under these parent permissions, on lands proximate to the appeal site, proposed dwellings were omitted (referred to in the subject permission as 'Dwelling No. 8' of PA Ref. SD15A/0221) and refused ('unit numbers 5 and 6' of PA Ref. SD16A/0445, PL06S.248229).
- 8.1.3. Of relevance for the current appeal, in the latter decision the Board's reason for refusing unit numbers 5 and 6 was, in summary, that as a result of their siting, scale and design, and their impact on the landscape, mature trees and the setting of the attendant grounds, that the units constituted a development that would appear overly dominant and piecemeal, and detract from the character and setting of Whitechurch Lodge. The Board concluded that unit numbers 5 and 6 were contrary to Policy 3 'Protected Structures', Objectives HCL3-1 and HCL3-2, Policy 6 'Green Infrastructure – New Development in Urban Areas', and Objective G6-1.
- 8.1.4. A key consideration in this appeal, therefore, is whether the previous refusal reason has been overcome. That being, whether a detached dwelling at this location can now be considered to satisfactorily comply with policies and objectives relating to protected structures and green infrastructure as referred to in the refusal reason.

- 8.1.5. As is outlined below in Section 8.2 Architectural Heritage and Section 8.3 Residential Amenity below, it is my opinion that the proposed development has overcome the refusal reason relating to the impact on Whitechurch Lodge and its setting, and the River Glin, its associated floodplain and its incorporation in the scheme's design.
- 8.1.6. If the Board is positively disposed to granting permission for the proposed development, there does not appear to be any restriction or impediment arising from the planning history to date in the wider estate. The appeal site is greenfield in nature, is undeveloped due to the planning history, was not designed or required through condition to serve as an area of public open space, or to be subsumed into another property in the estate.
- 8.1.7. In the event of a grant of permission, the proposed development is not an amendment to an extant permission per se. Instead, I consider that the proposed dwelling can be assessed as an infill residence and granted as a standalone permission, with new conditions required in respect of naming and numbering; new water services infrastructure connections, and a new development contribution. The applicant secured a Section 96 exemption certificate from the Planning Authority, so no condition is required in respect of same.

8.2. **Architectural Heritage**

- 8.2.1. The Board's refusal reason in PA Ref. SD16A/0445, PL06S.248229 and the Planning Authority's first refusal in the current appeal case, find that the proposed developments would, in summary, detract from the character and setting of Whitechurch Lodge and its curtilage and therefore be contrary to Development Plan policy and objectives which seek to protect same.
- 8.2.2. The Planning Authority's first refusal reason has two parts; firstly, that the proposed development will further reduce the setting and curtilage of the protected structure; and secondly that a previously prepared development strategy for the wider site in PA Ref. SD15A/0221 which had indicated development in the location of the proposed development cannot be relied upon in the current proposal to justify further

development, that there is insufficient rationale for the proposed development, or reasoning for overcoming the previous omission of housing in this location.

- 8.2.3. In respect of architectural heritage, in the appeal documentation the applicant has submitted a Conservation Statement prepared by a Grade 1 Conservation Architect, presently undertaking the renovation works of Whitechurch Lodge; an Architectural Response to the refusal reasons prepared by the project architects, with new CGIs; and a copy of the Conservation Report and Outline Development Strategy dating from 2015.
- 8.2.4. The Conservation Statement outlines that the important views of Whitechurch Lodge are the formal south elevation (original front entrance) and the long side elevation, the latter with a westerly aspect across the grounds of the house to the River Glin and the mature landscape in which the house is set. The development strategy for the lands involved locating new houses at the edges of the grounds to minimise the impact on Whitechurch Lodge and its relationship with the grounds. These houses, the detached properties, referred to as Houses 1 to 6 and the semi-detached pair, Houses 9 and 10, are complete and have left a clear view across the centre of the site.
- 8.2.5. The Conservation Statement highlights that the proposed house has been set back out of view from within Whitechurch Lodge, the style of the house is consistent with the existing development, and the planting of a tree in front of the house ensures it will be integrated into the landscape of the site. As such the author concludes that ‘one additional house on the northern side of the site will not result in a further impact on the historic building...[t]he incremental addition to the impact of the existing development is therefore...minimal’.
- 8.2.6. The Architectural Response to the refusal reasons states that the Conservation Architects involved in the scheme to date concurred that the most important feature of Whitechurch Lodge is its relationship with the garden and historic walking circuit to the back of the house. The existing development (the semi-detached pair) and proposed dwelling have been designed to complement and be subservient to the

protected structure and sketches are provided demonstrating the low impact on the Lodge and its grounds.

- 8.2.7. The Architectural Response submits that the estate as built at this location (i.e. the semi-detached pair) fails to provide a sense of courtyard enclosure and that there is an apparent void to the west of the pair. The author concludes that the proposed development will define the half-courtyard, frame the landscape in front of the protected structure as intended in the original development strategy, whilst having no impact on views over the landscape from within the protected structure.
- 8.2.8. I have reviewed the contents of the planning application and the supplementary appeal documentation. While I note the position of the Planning Authority in respect of the irrelevance of the previous development strategy in determining the current appeal, I agree with the strategy which offers a design solution for accommodating new buildings in the grounds of Whitechurch Lodge that minimises the impact on the protected structure. Additionally, I agree with the position of the Conservation Statement and the Architectural Response that the main features contributing to the setting of Whitechurch Lodge are the open garden area and the mature woodlands to the west of the protected structure.
- 8.2.9. The proposed development comprises a detached dwelling located adjacent to the northern boundary wall, on lands along the outer perimeter of the estate. The dwelling is set back c.29m from Whitechurch Lodge and is of a scale, height and finished floor level that are subservient to the protected structure. The appeal site does not form part of the front garden or mature woodlands area identified as being of most significance to the protected structure. As such, I do not consider that the proposed dwelling negatively impacts on or affects the structure's setting. I have reviewed the CGIs of views to and from Whitechurch Lodge, and of other vantage points within the estate, which confirm the absence of or minimal impact arising from the proposed development.
- 8.2.10. From my site inspection, I confirm that the Lodge's setting in this northern area has been altered through the construction of the semi-detached pair of dwellings (which are more proximate and visible in views to and from Whitechurch Lodge), and the

landscaping, boundary treatment, and roadworks undertaken to date. In my opinion, when these factors are taken into consideration, the proposed development causes no further impact on or alteration to the character of Whitechurch Lodge and/ or its setting than is presently the case.

8.2.11. Indeed, I consider there to be positive design implications arising from the proposed development. These include the provision of a sense of courtyard enclosure in this northern area, achievement of connectivity between the dwellings within the outer perimeter, and the framing of the landscape in front of the protected structure whilst having none or minimal impact on views to, from and within the protected structure, its setting and the wider estate.

8.2.12. In PA Ref. SD16A/0445, PL06S.248229, part of the reason the Board cited for refusing permission for unit numbers 5 and 6 related to, in summary, their siting, design and scale detracting from the character and setting of the protected structure. In comparison, the proposed development comprises a detached structure, as opposed to part of a terrace block, is located further away from Whitechurch Lodge, has a reduced building footprint than that of the omitted units, and includes screening to the front. From a review of the planning application, the appeal documentation and from my site inspection, I consider that the substantive refusal reason of unit numbers 5 and 6 as relating to architectural heritage has been overcome in respect of the proposed development.

8.2.13. For the current appeal, I do not agree with the Planning Authority's first refusal reason that the proposed development materially contravenes Policy 3 'Protected Structures', Objectives HCL3-1 or HCL3-2 as the proposed development is, in terms of siting and design, subservient to Whitechurch Lodge and resulting in minimal, if any, further impact on the character and setting of the protected structure. In the event of a grant of permission, the proposed development will alter the total number of dwellings within the estate and therefore, logically and reasonably, alter Conditions 1 and 3 of PA Ref. SD15A/0221 and PA Ref. SD16A/0445, PL06S.248229 respectively.

8.2.14. While I note that the Planning Authority's first refusal reason cites that the proposed development would 'contravene materially' policy and objectives in the Development Plan, I do not consider that to be the case and therefore the material contravention process provided for in Section 37(2)(b) of the Planning and Development Act 2000, as amended, is not applicable in this instance.

8.3. Residential Amenity

8.3.1. The second and third refusal reasons cited by the Planning Authority both relate to residential amenity. Respectively, the injury caused to the amenities of the adjacent property, No. 10, due to overbearing impact and overshadowing, and substandard provision of private open space to serve the subject property.

8.3.2. I consider the applicable policy for assessment purposes to be that of residential consolidation and infill sites. Subject to compliance with other planning considerations, the site comprises zoned serviced lands and an infill residence accords with the proper planning and sustainable development of the area.

8.3.3. The second refusal reason cited by the Planning Authority focuses on injury caused to the amenities of No. 10, immediately adjacent to the east. While no concern is expressed with regard to overlooking, an adverse overbearing and overshadowing impact on this property is identified due to the height and extent of the proposed dwelling along the eastern boundary.

8.3.4. The proposed dwelling is set back from the front building line formed by the semi-detached pair of dwellings, with the result that the dwelling projects beyond the rear building line of No. 10 for c. 7m along the shared boundary. A separation distance of c.1.2m is indicated between the side gables of the proposed dwelling and of No. 10. The c.7m deep projection is at two storey level with a principal height of c.6.4m. This projection coincides with nearly the full length of the rear garden of No. 10, with only a portion of the garden (a strip measuring c.2m in depth) near the northern boundary wall being free of development along the boundary.

- 8.3.5. I have had regard to the orientation of No. 10 and its north facing rear garden, the limited separation distance between the sides of the dwellings of c.1.2m, the depth and height of development along the boundary for nearly the full length of rear garden area, and I am of the opinion that the proposed development would cause injury to the amenities of No. 10 by way of overshadowing and overbearing impact. Should the Board decide to determine the proposed development as lodged with and assessed by the Planning Authority, I concur with the second refusal reason and recommend that permission be refused for this reason.
- 8.3.6. In the appeal documentation, the applicant has submitted revised plans and particulars of the proposed dwelling. The applicant states that, while they do not consider there to be an overshadowing impact on No. 10 arising from the proposed development as lodged with the Planning Authority, it is acknowledged that there may be an overbearing impact. The revised plans indicate a reduction in floorspace at first floor level in the northern part of the dwelling through the omission of bedroom and bathroom space (estimated as c. 55 sqm). The reduced floorspace results in a decrease of c.5.5m in the depth of the two storey projection along the boundary, from c.7m to c.1.5m beyond the rear wall of No. 10. There is no revision to the location of the proposed dwelling within the site, nor to the building footprint at ground floor level.
- 8.3.7. I consider the omission of first floor floorspace and the corresponding reduction in the depth of the two storey element along the shared eastern boundary with No. 10, as indicated in the revised plans and particulars, to be a preferable design solution for the proposed development. The revisions substantively address and overcome the Planning Authority's second refusal reason. As such, I propose to undertake an assessment based on the revised details.
- 8.3.8. The proposed dwelling as revised, is a 3 no. bedroom residence with an estimated floor area of 173 sqm, which exceeds the minimum Development Plan standard floor area for 3 no. bedroom houses. I consider that the internal layout and arrangement of the dwelling to be satisfactory, the aggregate floor areas for living and bedroom spaces to substantively meet required standards, and the residential amenity of future residents to be safeguarded.

- 8.3.9. In the appeal documentation, the applicant has submitted a Shadow and Daylight Analysis of the revised design which I have reviewed. The Analysis demonstrates there is 'minimal additional overshadowing produced' and 'no significant effect on the available daylight' of the adjacent No. 10. I consider that the results demonstrate the impact of the proposed dwelling on the adjacent property to not be excessive or to cause an undue injury.
- 8.3.10. The revised plans allow the visual impact of the proposed dwelling within the estate to be further reduced, especially when viewed from the west and south within the estate. The revisions also ensure that the proposed development aligns more consistently with the criteria in Section 11.3.1 for integrating new dwellings into infill sites. In summary, I consider the proposed dwelling, with the revised design and reduced scale, to not cause undue injury to the amenities of the adjacent properties.
- 8.3.11. In the event of a grant of permission, I recommend a condition be attached clarifying that the proposed dwelling shall be in accordance with the revised drawings submitted by the applicant at the time of the appeal.
- 8.3.12. The third refusal reason cited by the Planning Authority states that the private open space to serve the proposed dwelling is of inadequate quality, due to the sloping nature of the lands, and insufficient quantity in times of flooding. The proposal is stated as being contrary to Policy H13 and Section 11.3.1(iv), the latter indicating that the minimum areas of private amenity space include 60 sqm for a 3 no. bedroom house and 70 sqm for a 4 no. bedroom house.
- 8.3.13. In the appeal documentation, the applicant has submitted a newly detailed landscape plan with a corresponding cross section through the site from the river to the dwelling. The plan and section indicate the extent of usable level open space (stated as 144 sqm), the top line of the flood plain, the river bank, and the riparian zone. The drawings indicate a railway sleeper retaining wall at the top line of the flood plain, measuring 1.3m in height, at the edge of which is a timber and post fence boundary measuring 1.1m in height.

8.3.14. I have reviewed the proposed landscape plan and particulars, and consider that the proposed dwelling is provided with an area of private amenity space that is in excess of the minimum standards and, notwithstanding the sloping nature of the lands, that would be of sufficient quality and functionality for the future residents, especially when the terraced areas are considered. As such, I do not consider that the proposed development is contrary to Section 11.3.1(iv) or Policy H13, and therefore I do not agree with the Planning Authority's third refusal reason.

8.3.15. In respect of the private open space area potentially including part of the flood plain and therefore being unusable, from the details submitted I am satisfied that the usable garden area is not in the flood plain associated with the River Glin. The Planning Authority's Surface Water Drainage section recommends that the proposed dwelling's floor level be 500mm above the highest known flood plain. The cross section drawing of the landscape plan indicates the top line of the flood plain at 87mOD. At that line, the proposed development includes a railway sleeper retaining wall measuring 1.3m in height. The level of the car parking area is given as 88.55mOD, and the ground floor finished floor level is stated as 89.75m. These levels indicate that the requirement of the Surface Water Drainage section is achievable.

8.3.16. Lastly in respect of the Board's assessment of PA Ref. SD16A/0445, PL06S.248229, part of the reason cited for refusing permission for unit numbers 5 and 6 related to, in summary, their siting and layout being a dominant form of development impacting on the landscape and mature trees and thereby being contrary to policy and objective associated with green infrastructure for new developments. In comparison, the proposed development comprises a detached structure, with a reduced building footprint, located further away from the River Glin and is accompanied by landscaping particulars that give due regard to the river and the flood plain. From a review of the planning application, the appeal documentation and from my site inspection, I consider that the substantive refusal reason of unit numbers 5 and 6 as relating to green infrastructure has been overcome in respect of the proposed development. I also note, and recommend the attachment of, the recommended condition from Inland Fisheries Ireland for the agreement of a construction environmental management plan.

8.3.17. In summary, in considering the current appeal case with the revised plans and particulars submitted to the Board in the appeal documentation, I do not agree with the Planning Authority's second and third refusal reasons that the proposed development is contrary to the RES zoning objective, Housing Policy 13 and Section 11.3.1(iv) standards.

9.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to European sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

10.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions as set out below.

11.0 **Reasons and Considerations**

Having regard to the land use zoning of the site, to the infill nature of the site, to the design and scale of the proposed development, and to the planning history, nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of property in the vicinity, would not be out of character with the area, would comply with the provisions of the South Dublin Development Plan 2016-2022, and would be acceptable in terms of architectural heritage and green infrastructure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 14 th day of July 2020 except as may otherwise be required in order to comply with the following
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	<p>conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The flat roof area, resultant from the omission of first floor accommodation as indicated on the revised plans and particulars received by An Bord Pleanála on the 14th day of July 2020, shall not be used as a terrace area and no boundary walls, fences or railings shall be erected around the perimeter of the area.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
3.	<p>The materials, colours and textures of all the external finishes of the proposed dwelling, including roof tiles/ slates, shall be the same as those of the existing dwellings in the estate.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The developer shall submit an acceptable naming and/ or numbering scheme for the written agreement of the planning authority.</p> <p>Reason: In the interest of orderly development.</p>
5.	<p>The landscape plan shown on Drawing Nos. 20SD01_DR-200 and 20SD01_DR-240, as received by An Bord Pleanála on the 14th day of July, 2020, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
6.	<p>Surface water drainage arrangements for the proposed development shall be agreed in writing prior to commencement with the planning authority.</p> <p>Reason: In the interest of public health.</p>

7.	<p>(i) The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water prior to commencement of development.</p> <p>(ii) Any proposals by the developer to build over or divert the existing water or wastewater services shall be submitted to Irish Water for written approval prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The developer shall submit a Construction Environmental Management Plan (CEMP) for the written agreement of Inland Fisheries Ireland prior to commencement of development. The developer shall implement any measures required by Inland Fisheries Ireland to protect the water quality of the River Glin (Whitechurch Stream). A copy of the agreed CEMP shall be submitted to the planning authority for the public record.</p> <p>Reason: In the interest of public health and to protect river water quality.</p>
9.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interest of visual and residential amenity.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Phillippa Joyce
Senior Planning Inspector

16th November 2020