



An
Bord
Pleanála

Inspector's Report ABP308451-20

Development	Construction of a 3 storey, 3-bed dwellinghouse.
Location	Site to the side of 72 Brookville Park, Coolock, Dublin 5, D05Y766.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3120/20.
Applicant	Lina Ivanovaite.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	Lina Ivanovaite.
Observer	Yvonne Stacey.
Date of Site Inspection	28 th January 2021
Inspector	Paul Caprani.

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1.0 Introduction

ABP308451-20 relates to first party appeal against the decision of Dublin City Council to refuse planning permission for the construction of a detached three-storey, three-bedroomed dwelling with a terrace at second floor level on lands adjacent to a dwelling at Brookville Park, Coolock. Dublin City Council refused planning permission for two reasons on the basis that the form, layout and style of the proposed development would be inconsistent with the established character of properties in the area and would result in a haphazard form of development which would constitute an overdevelopment of the subject site. The second reason for refusal argued that there would be insufficient private open space to serve the dwelling and the private open space serving the new dwelling would be overlooked by neighbouring properties which would impact on the amenity of future residents of the property.

2.0 Site Location and Description

- 2.1. 72 Brookville Park is located at the junction of Brookville Park and the Old Malahide Road in the suburban area of Coolock approximately 7 kilometres north-east of Dublin City Centre. The Malahide Road (R107) is a heavily trafficked distributor route serving the suburban areas of north-east Dublin. While No. 72 Brookville Park faces eastwards onto the Malahide Road, the dwellinghouse and adjoining houses are served by a separate internal residential road which runs contiguous to, and parallel to the Malahide Road. Brookville Park is located on the western side of Malahide Road. No. 72 comprises of a two-storey semi-detached two-storey end of terrace dwelling which is located at the north-eastern end of the road.
- 2.2. The subject site is located on the corner of the Malahide Road and Brookville Park Road to the immediate north-east of No. 72. It currently constitutes manmade wasteland with a low perimeter wall around its boundary and c.1.8-metre-high boundary wall traverses the site. The site also incorporates part of the existing rear garden of No. 72 Brookville Park. The rear boundary of the site, contiguous to the Old Malahide Road incorporates a higher c.2m high boundary wall. The entrance to

the Cadbury's factory is located opposite the rear boundary of the site on the Malahide Road.

3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of a three-storey dwellinghouse on the subject site. The front entrance to the dwellinghouse is located adjacent to the front elevation of No. 72 Brookville Park facing onto the Malahide Road. It is proposed to incorporate a kitchen, living and dining room at ground floor level with a small, terraced area and garden area to the rear. At first floor level it is proposed to accommodate two bedrooms facing north-eastwards towards the junction of Brookville Park and the Old Malahide Road. Both bedrooms accommodate en-suite bathrooms. At second floor level it is proposed to accommodate a master bedroom which also faces onto the junction of Brookville Park and the Old Malahide Road. A terraced balcony area faces over the rear garden. Provision is made for one car parking space with access onto the Old Malahide Road to the rear of the site.
- 3.2. The three-storey building is to incorporate a pitched roof rising to a ridge height of 9.4 metres. While the ridge height is similar to the adjoining building at No. 72 Brookville Park the ridge profile is different in that it incorporates an A-shaped gable fronting onto the Malahide Road. In terms of external finishes, it is proposed to incorporate a Bangor blue slate roof with an extensive red clay brick finish on the front elevation. The front elevation also incorporates zinc cladding around the roof and Alu-clad windows. A balcony to the rear of the dwelling to serve the master bedroom at second floor level incorporates a glass balustrade surround.
- 3.3. No 72, the adjoining dwelling, incorporates a two-storey flat-roofed extension to the side, with the first floor set back. The ground floor accommodates, a beauty saloon at ground floor level¹. The drawings suggest that the upper floor of no. 72 accommodate an apartment.
- 3.4. The application indicates that the total site area is 155.1 sq.m and the floor area of the proposed building is 139 square metres.

¹ This appears to be the subject of a current application for retention which has not been determined at the time of writing this report.

4.0 Planning Authority's Decision

Dublin City Council refuse planning permission for two reasons which are set out in full below.

1. *Having regard to the Z1 zoning objective of the subject site and Section 16.10.9 of the Dublin City Development Plan 2016 – 2022, it is considered that due to the prominent location of the subject site fronting onto the Malahide Road and the form, layout and materials of the proposed dwellings, the proposed development would be inconsistent with the established character of the existing property at No. 72 Brookville Park and the neighbouring dwellings on Brookville Park and would be visually intrusive and incongruent element of the streetscape. Furthermore, the planning authority has concerns that the proposed development would result in a haphazard form of development alongside the existing property at No. 72 Brookville Park which would result in the overdevelopment and intensification of a constricted site with multiple uses. The proposed development would, therefore, by itself and by the precedent it would set for other development in the surrounding area, be contrary to the provisions of the Dublin City Development Plan and contrary to the proper planning and sustainable development of the area.*
2. *Having regard to Section 16.10.2 of the Residential Quality Standards – Houses of Dublin City Council Development Plan 2016 – 2022 which requires a minimum standard of 10 square metres of private open space per bedspace, the proposed development provides an insufficient quantum of private open space resulting in an unacceptably low level of residential amenity for future occupants of the proposed dwelling. Furthermore, due to the positioning of the private open space to the rear of the existing property, No. 72 Brookville Park, the private open space to serve the new dwelling will be heavily overlooked from the neighbouring property thereby resulting in a space of low amenity value. The proposed development would therefore, by itself or by the precedent it would set for other development, be contrary to the*

provisions of the Dublin City Development Plan 2016 – 2022 and therefore be contrary to the proper planning and sustainable development of the area.

4.1. Planning Authority's Assessment

- 4.1.1. The planning application was lodged with Dublin City Council on 30th July, 2020. The planning application form states that the applicant is the owner of the site in question.
- 4.1.2. A report from the Engineering Department Drainage Division states that there is no objection to the proposed development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- 4.1.3. A report from the City Archaeologist recommends that an archaeological monitoring condition be attached to any grant of planning permission.
- 4.1.4. A report from the Roads, Streets and Traffic Department states that additional information should be sought in respect of the proposed entrance arrangements. There are concerns regarding the height of the proposed site entrance gate and boundary wall as it will result in poor forward visibility to oncoming pedestrians, cyclists and vehicles. The applicant is therefore requested to submit a revised rear boundary treatment proposal which reduces the height of the vehicular gate and pillars and adjoining boundary wall or an alternative boundary treatment design.
- 4.1.5. The planner's report notes the overall height and finishes associated with the three-storey contemporary designed house. The subject site is considered to be highly prominent and any proposal for a dwelling within the side garden should ensure that it is in keeping with the character of the street and compatible with the design and scale of existing dwellings.
- 4.1.6. The impact of the new building is further accentuated as there are no amendments proposed to the proposed medical unit² at No. 72. The juxtaposition of the existing property and side extension incorporating a medical unit with the new dwelling results in a haphazard appearance. A more integrated approach will improve the appearance and reduce the overall impact. Concerns are expressed that overall, the

² Now in use as a beauty saloon and subject of an application for retention.

proposal could result in a haphazard disorganised and piecemeal approach in terms of layout, appearance and a mixture of commercial and residential uses.

- 4.1.7. In terms of impact on residential amenities of adjoining sites, it is not considered that the proposed dwelling will result in any significant reductions in daylight and sunlight to those dwellings or have an overbearing appearance. It is not considered that the provision of a balcony to the rear will result in an excessive overlooking of neighbouring dwellings. Concerns are also expressed in respect of the amount of private open space. The private open space for a three-bedroomed dwelling would be 60 metres. However, the total area of private open space provided is only 47.24 square metres. Furthermore, the private open space will be heavily overlooked by the existing property at No. 72.
- 4.1.8. In terms of car parking, the concerns of the Roads, Streets and Traffic Department Road Planning Division are noted. Their concerns would suggest that the constricted nature of the subject site and location of the junction between Malahide Road and Brookville Park may not be conducive to the provision of a dwelling to the side of No. 72. Finally, the report notes that the house complies with the minimum standards for houses set out in Section 16.10.2 of the development plan. It is noted that no areas have been specifically designated for storage. However, having regard to the overall area of the dwelling, there is potential storage under the stairwells or within the utility room and this is considered to be adequate.
- 4.1.9. On the basis of the above assessment the planner's report recommended a refusal of planning permission for the two reasons referred to above.

5.0 Planning History

- 5.1. No appeal files are attached. Details of the social housing exemption certificate associated with the subject application are attached in a pouch to the rear of the file.
- 5.2. Two applications are referred to in the local authority planner's report.
- 5.3. Under Reg. Ref. 2121/16 (PL29N.246416) An Bord Pleanála upheld the decision of Dublin City Council to refuse planning permission for a change of use of an existing medical/doctor's surgery to a solicitor's office at part of the ground floor at No. 72 Brookville Park, Coolock, Dublin 5. Planning permission was refused on the basis

that the proposed change of use to office was not permissible or open for consideration under the Z1 zoning objective.

- 5.4. There is a current application under Reg. Ref. 3007/20 for the retention of a development consisting of a partial change of use from medical to beauty clinic at ground floor level and the erection of permanent signage to the front façade. Dublin City Council requested additional information in respect of this application. At the time of writing this report a decision had yet to be made on this application.

6.0 Grounds of Appeal

- 6.1. The decision was the subject of a first party appeal on behalf of the applicant submitted by the planning partnership.
- 6.2. As a preamble to the grounds of appeal it is contended that the planning authority's assessment relates to an apparent preference for the overall property to be reconfigured and redeveloped. The applicant wishes to confirm that a substantial reconfiguration or redevelopment of the subject site is not feasible and the Board are requested to determine the subject proposal on its own merits. The grounds of appeal go on to state the following:
- The proposed development is fully consistent with the zoning objective set out in the development plan.
 - The proposed development is of an appropriate design and this is generally accepted by the planning authority. While the design is not an extension of the existing style it does constitute a new appropriate modern addition. It is suggested that the subject site is somewhat visually and functionally separate from the existing row of houses and this allows for more flexibility and capacity to absorb the development.
 - The existing premises (No. 72) has a long-established mix of residential and commercial uses and the proposal does not require any intervention in terms of the existing buildings on site.
 - In terms of overdevelopment, it is argued that the development proposed is at the lower end of the plot ratio and site coverage quantitative standards set out in the development plan. The type of infill development proposed is strongly

supported by the Sustainable Residential Development in Urban Area Guidelines and the National Planning Framework.

- The proposed development would not create a precedent as there are examples in the wider area which indicate there is capacity for variety and contrast of new infill development.
- The proposal would provide a high quality private open space for the occupants of the dwelling.
- The grounds of appeal go on to assess and evaluate the various comments made in the local authority planner's report.
- The grounds of appeal incorporate various photographs which contend that the subject site is functionally separate from the rest of the street. It is argued that views through the site which is surrounded on the whole by industrial premises offer a relatively low visual amenity. The proposal would provide a bookend feature to create a greater sense of place and enclosure. It is respectfully submitted that there is no requirement for the proposed dwelling to reflect the form, materials and character of existing dwellings.
- The applicant confirms that they are amenable to revising the colour of the brick proposed to a similar selected grey stone brick or introduce an additional render or cladding should the Board consider it to be appropriate.
- It is noted that the planning authority have themselves confirmed that the proposed development is in itself an attractive design.
- The proposed development is at the end of an existing row of dwellings and will not interact with or overlook any nearby properties except for No. 72 which is in the applicant's ownership.
- The proposed dwelling and the existing unit at No. 72 will have more than sufficient private open space provided.
- With regard to the car parking space, it is submitted that relatively minor alterations to the boundary treatments can overcome any concerns of the planning authority.

- Any concerns in relation to the height of the rear boundary could be addressed by way of condition and is not considered to be a fundamental issue. It is noted that the planning authority have confirmed that the scale of the proposed development reflects the ridge height and eaves of the existing dwelling.
- The subject site represents a transitional area between a relatively non-descript residential street and open space and industrial lands. The proposal constitutes a self-contained dwelling which is entirely separate from the existing structure at No. 72. It appears that the planning authority's concerns in respect of the mix of uses conflates the planning considerations relating to the proposed development. The Board should focus its opinion on the determination of the extent of the proposed development and not extraneous scenarios beyond the subject site.
- The grounds of appeal go on to reiterate that the proposal does not constitute overdevelopment and is fully in accordance with the development standards in respect of plot ratio and site coverage.
- Reference is made to National Policy Objective 11 and National Policy Objective 13 in the National Planning Framework which highlight the need for more flexible design led performances particularly in relation to brownfield infill sites in urban areas.
- Contrary to what is stated in the reasons for refusal, the proposal will not constitute an undesirable precedent and that the principle of developing corner sites has already been well established.
- In terms of private open space provision, it is argued that the dwellinghouse proposed, despite being three bedrooms, is unlikely to accommodate six persons. It is far more realistic to assume that the householder would have a maximum of four persons and therefore 40 square metres should suffice (i.e., 10 square metres for four persons).
- Furthermore, the exclusion of the parking area for the purposes of calculating open space is not appropriate on the basis that this space may not be exclusively used for parking and could still serve as a valuable amenity purpose. Furthermore, the area excluded (30 square metres) is far in excess

of the footprint of the parked car. The overall rear garden/patio area would amount to 62.5 square metres.

- It is also argued that there are several solutions including the partial splaying of the boundary walls and gates could overcome problems associated with the sightlines at the proposed vehicular entrance.
- With regard to overlooking, it is acknowledged that the living room windows in the first-floor apartment could give rise to some overlooking which would affect the quality of the private open space. It is suggested that a vertical external louvre could be attached with individual fins which would frame views away from the public open space while allowing natural light into the living room of the first-floor apartment unit.
- In conclusion therefore it is argued that the decision of the planning authority should be overturned in this instance.

7.0 Observations

7.1. An observation was submitted on behalf of a number of residents residing at Brookville Park in the vicinity of the site. The issues raised in the observation are set out below.

- The development would infringe far too much on the privacy of the houses next to it (No. 70 and 71) and further down the line (No. 67, 66 and 65) if the balcony to the rear of the house was allowed.
- The proposed development would be incongruous and out of character with the rest of the houses.
- There have been many problems with drainage in the area and the drains need to be cleared on a frequent basis. While the problems relate to the overall drainage network serving the area, the drains in question are located in the observer's garden (No. 67 Brookville Park) and as such it has affected her property. The new development would add to this already overloaded system. It is also suggested that when planning permission was granted for two dwellinghouses to the rear the developer did not adhere to the drainage specifications and this has exacerbated drainage problems in the vicinity.

- The subject site is located on a very dangerous bend for traffic entering and exiting Brookville Park. As such the proposal would represent a traffic hazard. Concerns are expressed that if a change of use is permitted from the doctor's surgery to a beauty salon, this would significantly increase traffic generation and thereby exacerbate traffic safety. Notwithstanding the fact that there are double yellow lines in the area it is argued that this is generally ignored.

8.0 EIAR Screening Determination

Having regard to the nature of the development comprising of a single dwelling in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

9.0 Natural Heritage Designation

- 9.1. The subject site is not located within or contiguous to a Natura 2000 site. The nearest Natura 2000 site is the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206) both of which are located c.3 kilometres to the south-east of the subject site.

10.0 Development Plan Provision

- 10.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The lands on which the proposed dwelling is to be located are governed by the zoning objective Z1 – 'to protect, provide and improve residential amenities.' Residential development is permitted in principle under this zoning objective.
- 10.2. Section 16.10.9 sets out Dublin City Council's policy in relation to developing corner/side garden sites. It states that the development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments when undertaken on suitable sites to a high standard can constitute valuable additions to the residential building stock in

the area and will generally be allowed for by the Planning Authority on suitably large sites. However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor-quality independent dwelling which may also compromise the quality of the existing house.

10.3. The Planning Authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites.

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building, proportion, heights, parapet levels and materials of the adjoining buildings.
- Impact on residential amenities of adjoining sites.
- Open space standards and refuse standards for both existing and proposed development.
- The provision of appropriate car parking facilities, and a safe means of access and egress from the site.
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of front and side building lines where appropriate.

10.4. Section 16.10.2 of the development plan sets out residential quality standards for houses. In terms of private open space, it is noted that privacy is an important element of residential amenity and contributes to the sense of security. Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A minimum standard of 10 square metres of private open space per bedspace will normally be applied. A single bedroom represents one space, and a double bedroom represents two spaces. Generally, up to 60 to 70 square metres of rear garden is considered sufficient for houses in the city.

11.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the planning authority's reasons for refusal and the grounds of appeal rebutting these reasons. I have also had regard to the issues raised in the observation submitted on file. I consider the pertinent issues in determining the current application and appeal before the Board are as follows:

- Principle of Development
- Impact on the Character and Visual Amenity of the Area
- Design and Layout
- Overdevelopment of the Subject Site
- Open Space Provision
- Overlooking Issues
- Drainage Issues
- Traffic and Parking Issues

11.1. Principle of Development

11.1.1. The subject site is zoned Z1. Residential development is acceptable in principle on the subject site. The subject site is currently undeveloped and is in a derelict and untidy condition which constitutes a visual eyesore and impacts on the overall visual amenity and character of the area. I note that Policy QH8 of the development plan seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area. I would argue therefore that the principle of developing the subject site which constitutes a vacant and underutilised site would be acceptable in principle subject to qualitative safeguards and these qualitative safeguards are addressed in more detail below in my assessment.

11.1.2. I would also refer the Board to the National Planning Framework which likewise seeks to direct new development, including residential development, to within the footprint of existing urban areas in order to create a more compact urban form. The National Planning Framework states that the preferred approach in terms of

accommodating new development would be compact development that focuses on reusing previously developed brownfield land and building up infill sites which may not be built on before and either reusing or redeveloping existing sites and buildings. The proposed development therefore is compatible with the land use zoning objective and compatible with the more general national and local land use policies which seek to utilise brownfield infill sites subject to qualitative safeguards. These issues are dealt with in more detail below.

11.2. Impact on the Character and Visual Amenity of the Area

11.2.1. The proposed design and layout (which is dealt with under a separate heading below) represents a departure from the existing late 1960s/early 1970s suburban style residential development which is typical and ubiquitous around the suburban areas north of the city including Beaumont, Artane, Coolock, Kilmore, Whitehall and Santry. Brookville Park and the area surrounding Brookville Park in the vicinity of the Malahide Road attracts no conservation designations and the buildings and houses surrounding the site are of no historical or architectural importance. The area is characterised by a large distributor road leading north-eastward from the city centre, large scale suburban residential housing dating from the late 1960s and 70s together with a number of industrial areas including the Cadbury's (and former Cadbury's/ Tayto and Crown Paints) factories which are located on lands in the vicinity of the site. The area possesses no innate architectural style or character which is worthy of protection. In this regard I consider that there is scope to provide for an individual dwellinghouse which diverges from the uniformity of the existing dwellings along Brookville Park, particularly in light of strategic policies to utilise infill brownfield sites where possible. In fact, I would further argue that the development of the subject site for a dwellinghouse which is not reflective of the existing style of dwellings in the area would represent a planning gain purely on the basis that it would eradicate a vacant derelict strip of land which currently constitutes an eyesore. I therefore do not consider that the development of the subject site would adversely impact on the character and visual amenities of the area.

11.3. Design and Layout

11.3.1. From the outset, if the Board are in agreement that the principle of development is acceptable on the subject site, it is worthwhile to note that the site layout and

dimensions does not lend itself to provide an additional dwellinghouse in the same architectural suburban style as the existing dwellings along Brookville Park. The limited site width particularly facing onto the Malahide Road would not permit the continuation of a dwelling in the size, scale and footprint of the existing dwellings fronting onto Brookville Park. The site constraints dictate and necessitate a departure in style from that which exists along Brookville Park.

11.3.2. What is proposed in this instance is a three-storey dwelling which incorporates an A-shaped gable fronting onto the Malahide Road as the site incorporates a narrower front elevation than the existing suburban dwellings facing onto Brookville Park. Notwithstanding this, the overall ridge height and parapet levels mirror and respect the height and design of the existing dwellings fronting onto Brookville Park. The building incorporates a mixture of traditional styles and finishes including an extensive brick finish and plaster render finish at ground floor level as well as more contemporary elements including zinc cladding on the upper elevations together with glass balustrades. This in my view represents an appropriate mix of traditional and contemporary styles and is acceptable in visual amenity terms. As already mentioned, the prevailing character of the area allows for more flexibility and design and I consider it appropriate that any development of the subject site would be more reflective of contemporary style architecture rather than slavishly adhering to the prevailing 1970s style architecture.

11.3.3. I therefore consider the proposed layout and design to be appropriate on the basis it incorporates both traditional and contemporary materials that respect the design and character of the area while also reflecting more contemporary styles.

11.3.4. The grounds of appeal suggest that if the Board consider it appropriate a condition could be imposed changing the brick colour from red clay to grey. The Board could consider incorporating such a condition. However, I consider that the red clay provides a striking contrast with the existing dwellings and adds a greater variety of building style which is appropriate for an end of terrace dwelling.

11.4. **Overdevelopment of the Subject Site**

11.4.1. The planning authority's reasons for refusal states that the proposal represents an overdevelopment of the subject site. Despite being three storeys in height the proposed dwelling respects the overall height and scale of the dwellings along

Brookville Park. The ridge height of the proposed dwelling reflects the ridge height of the adjoining dwellings to the south-west along Brookville Park. Furthermore, and as pointed out in the grounds of appeal, the subject site being located at the end of the terrace provides an opportunity to provide a bookend building and in this regard I consider a building of a slightly larger scale and mass would be appropriate. Notwithstanding this, the grounds of appeal clearly point out that the proposed dwellinghouse adheres to plot ratio and site coverage standards as set out in the development plan therefore it cannot be reasonably argued that the proposed development represents an overdevelopment of the subject site. I note that the grounds of appeal compute the site coverage and plot ratio on the basis of the entire site i.e. the subject site together with No. 72 Brookville Park. If the plot ratio and site coverage was calculated purely on the basis of the proposed development it would nevertheless comply with development plan standards. The proposal would represent a plot ratio of approximately 0.9 which is fully in accordance with the indicative plot ratio standards for Z1 areas or between 0.5 and 2. The site coverage is in the region of 38% which again is well within the indicative site coverage range for Z1 residentially zoned areas where an indicative site coverage of 45% to 60% is permitted.

11.4.2. Therefore, in accordance with indicative standards set out in the development plan, it cannot in my view be reasonably argued that the proposed development constitutes an overdevelopment of the site. Furthermore, I would again refer the Board to the policies and objectives set out in the National Planning Framework in relation to the application of flexible standards for new urban housing. The National Planning Framework notes that to enable brownfield development planning policy standards need to be flexible focussing on design led and performance-based outcomes rather than specifying absolute requirements in all cases.

11.5. **Open Space Provision**

11.5.1. I do not consider it appropriate that planning permission would be refused on the basis that the applicant has failed to meet the requirements of private open space provision. I reiterate that the Board, in assessing applications for infill development in urban areas are required to employ a more flexible interpretation of standards. The guidelines state that although sometimes it is necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-

designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards are devised for application to greenfield development sites and cannot account for the evolved layers of complexity in the existing built-up areas. The proposal in this instance provides an area of 47.24 square metres of private open space and this excludes the paved parking area which if included would provide an area of private open space in excess of 60 square metres. This in my view is an acceptable level of private open space to cater for a three bedroomed residential unit.

11.6. Overlooking Issues

- 11.6.1. Overlooking in my view is the most problematic issue relating to the proposed development. As laid out the proposed development and the private amenity space relating to the proposed development wraps around the rear of No. 72. This results in the reduction in the rear length of the garden currently serving No. 72 and at its closest point the rear elevation of No. 72 is a mere 4 metres from the common boundary separating the two amenity spaces. Furthermore, according to the information submitted, the room above the doctor's surgery constitutes a living room which directly overlooks the private amenity space of the proposed dwelling. The applicant in the grounds of appeal suggests a mitigation measure to overcome this problem by incorporating a row of finned louvres on the window serving the living room overlooking the private amenity space. While this may address the issue of overlooking to some extent it would also have implications on daylight and sunlight penetration to the living room at first floor level at No. 72.
- 11.6.2. It is my considered opinion that the window in question would only directly overlook part of the amenity space associated with the proposed dwelling. A significant proportion of the amenity space directly to the rear of the proposed dwelling would be secluded and would not be adversely affected by overlooking. That part of the private amenity space that is overlooked relates mainly to the car parking area and the rear of the site adjacent to the car parking area.
- 11.6.3. Furthermore, it is my considered opinion that any perspective purchaser/occupier of the proposed dwellinghouse would be readily aware of the level of overlooking which would take place and would decide to purchase/occupy the said dwelling on the

basis of the level of overlooking which would arise. Having regard to the nature of the site, the need to provide a requisite amount of private amenity open space, and the planning gain which would be accrued on foot of providing an additional housing unit and eradicating a vacant site should be balanced against the overlooking issues which would occur in respect of any future occupant. On balance I would consider that the benefits of developing the site would outweigh any concerns regarding potential overlooking.

11.6.4. Concerns were also expressed in the observations submitted that the recessed terrace at second floor level could also give rise to overlooking of the rear gardens of dwellings further down from No. 72 (house no's 66 to 71 Brookville Park). I do not consider that issue of overlooking in this regard to be a major concern as only very oblique views would be afforded from the terraced area towards the gardens of the dwellings in question and the separation distance between the propose terrace and the rear gardens would also reduce the potential for overlooking. If the Board have any concerns in this regard it could require screening along the southern portion of the terrace or indeed omit the terrace in its entirety.

11.7. Drainage Issues

11.7.1. The issue of drainage represented a very significant concern in the observation submitted. According to the observation there are significant issues with regard to existing drainage serving the dwellinghouses to the south of the site along Brookville Park. The problem appears to be particularly acute at No. 67 Brookville Park. I note the observation submitted suggests that the problem appears to be primarily predicated on new infill development to the rears of No. 67 to 69 Brookville Park (fronting onto the Old Malahide Road) and the assertion that the developer in question illegally connected to the existing wastewater infrastructure in contravention of a condition. I cannot verify the veracity of such a contention in the absence of specific evidence. I would however refer the Board to the report from the Engineering Department Drainage Division which clearly and unambiguously states that there is no objection to the proposed development subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works. Furthermore, there is nothing to suggest that the proposed development would exacerbate or contribute to any existing drainage problems experienced in the area. On this basis I

do not consider it appropriate to refuse planning permission for reasons relating to inadequate drainage.

11.8. Traffic and Parking Issues

- 11.8.1. Concerns are expressed in the observation that there are significant parking problems associated with the proposed development particularly as the subject site is located at a junction where sightlines are restricted. The concerns expressed in the observation are predicated on concerns in respect of a separate application before the planning authority which seeks a change of use from the existing surgery to a beauty salon, which it is feared, would generate considerably more traffic than the surgery thereby exacerbating parking and traffic concerns. Any concerns relating to traffic generation associated with the proposed change of use application is beyond the remit of the current application which merely relates to a single dwellinghouse where one off-street car parking space is provided in accordance with the requirements of the development plan. It is not considered that the proposed dwellinghouse will give rise to significant traffic generation and it is further noted that one car parking space is provided to cater for the proposed dwellinghouse.
- 11.8.2. Concerns were also expressed in the Roads, Streets and Traffic Department Report that the height of the proposed site entrance gate and boundary would result in poor forward visibility to oncoming pedestrian cycles and vehicles. I note that the Roads, Streets and Traffic Department Road Planning Division did not recommend a refusal on this basis but merely requested further information in this regard. The applicant in the grounds of appeal would be happy to accept modifications to improve visibility should the Board consider it appropriate. This section of the Old Malahide Road is relatively lightly trafficked road and adequate sightlines are afforded in each direction at the proposed entrance (see photos attached). However, should the Board deem it appropriate, it could incorporate lower boundary walls with a splayed entrance to ensure that sightlines are not obscured. This issue in my view can again be addressed by way of condition.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

13.0 Conclusions and Recommendation

Arising from my assessment above, I consider that the proposed development is acceptable and fully in accordance with the zoning provisions set out in the development plan. Furthermore, it will assist in eradicating a derelict site which currently constitutes an eyesore and will assist in realising policies set out in the National Planning Framework and the development plan to promote the development of vacant and underutilised infill sites within urban areas. I further consider that the proposed development will have an acceptable impact on surrounding residential amenity, will not adversely impact on the visual amenities or character of the area and would generally be acceptable in terms of traffic safety and convenience. On this basis, I recommend that the decision of Dublin City Council be overturned and planning permission be granted for the proposed development.

14.0 Reasons and Considerations

Having regard the Z1 zoning objective for the site and the design, scale and siting of the proposed dwelling it is considered that, subject to conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or property in the vicinity, would provide adequate levels of open space and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes to the proposed dwelling, including colours, materials and textures shall be agreed with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. Prior to the commencement of development, the developer shall enter into a water and/or wastewater connection agreement with Irish Water.

Reason: In the interest of public health.

5. Details of the proposed vehicular access arrangements including vision splays at the proposed access shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 hours Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the

planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. Any damage to the public road or footpath during the course of construction works shall be repaired at the developer's expense. Details of the nature and extent of repair shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Paul Caprani,
Senior Planning Inspector.

11th February, 2021.