



An
Bord
Pleanála

Inspector's Report

ABP-315522-23

Development	Removal of section of wall between the lane & front garden to provide off street parking with all ancillary works.
Location	No. 12 Crosthwaite Park South, Dun Laoghaire, Co. Dublin (Protected Structure RPS 1382). The site is located within an ACA.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D22A/0604.
Applicant(s)	Justin & Grainne Callaghan.
Type of Application	Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party.
Appellant(s)	Anita Hooper.
Observer(s)	None.
Date of Site Inspection	26 th day of July, 2023.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.3. Planning Authority Reports	4
3.4. Prescribed Bodies	5
3.5. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.3. Natural Heritage Designations	9
5.4. EIA Screening	9
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Applicant Response	11
6.3. Planning Authority Response.....	12
6.4. Observations.....	12
7.0 Assessment.....	12
8.0 Appropriate Assessment.....	27
9.0 Recommendation.....	27

1.0 Site Location and Description

- 1.1. No. 12 Crosthwaite Park South, the appeal site, has a stated site area of 0.0447ha and consists of a rectangular parcel of land located on the northern side of Crosthwaite Park South c73m to the west of Crosthwaite Park South's intersection with Glenagery Road Lower (R118), in Dun Laoighaire, just over 11km to the south east of Dublin's city centre.
- 1.2. The site contains an attractive end of terrace two storey over raised basement level dwelling that is setback from the public domain of Crosthwaite Park South by a gravelled area. It forms part of a group of five period terrace dwellings that forms part of a group of two once highly uniform in their architectural appearance, built form and palette of materials that address the northern side of Crosthwaite Park South to the immediate west of its junction with Glenagery Road Lower.
- 1.3. The roadside boundary to the immediate front of this period dwelling consists of a highly intact and attractive period painted decorative cast iron railings set on painted granite plinths and punctuated by a pedestrian gate on its westernmost side. It also includes a mature tree to the east of the pedestrian gate. This period roadside boundary is bound by a pedestrian and vehicle entrance on its easternmost side which opens directly onto a gravelled driveway/laneway from Crosthwaite Park. Double yellow lines run alongside the carriage edge at this point.
- 1.4. This laneway runs alongside the aforementioned setback front garden area as well as the eastern side elevation of this period terrace property and its main rear garden area to where it turns in a westerly direction past the rear boundary wall. Effectively this laneway forms a separate L-shaped parcel around the historic plot of No. 12 Crosthwaite Park South. Both the western and eastern side of this laneway is defined by a boundary wall for its main northerly stretch.
- 1.5. The surrounding area has a mature residential period character.

2.0 Proposed Development

- 2.1. Planning permission is being sought for removal of section of wall between the lane and front garden to provide off street parking including installation of an electrical vehicle charging point, removal of existing vehicular gates to lane and replacement

with wrought iron vehicular gates with side pillars to match existing historic railings. Erection of painted hardwood gates in lane set behind the frontage of the house together with all ancillary works.

2.2. The Planning Authority sought **further information** on the 10th day of October, 2022, on the following matters:

Item 1): Clarification of red line area of the site sought.

Item 2): Revised design for the hardwood gates sought.

2.3. The Applicant submitted their **further information response** on the 14th day of November, 2022. This was deemed to be significant and was accompanied by new public notices. This response puts forward a revised design consisting of traditional coursed rubble granite piers and a pair of hardwood gates painted black.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.2. By order dated 7th day of December, 2022, the Planning Authority issued notification of the decision **grant** permission subject to 4 mainly standard in nature conditions. I note the requirements of Condition No. 3. It requires the removal of an existing 'Pay and Display' parking bay.

3.3. **Planning Authority Reports**

3.3.1. **Planning Reports**

The **final Planning Officer's report** is the basis of the Planning Authority's decision. This report considered that the red line boundary had been satisfactorily clarified and that the right of way concerns could be addressed by way of the attachment of an advisory note reiterating Section 34(13) of the Planning and Development Act, 2000, as amended. The revised treatment of the gates to the laneway were also deemed to be acceptable to their context. This report concludes with a recommendation to grant permission subject to conditions.

The **initial Planning Officer's report** sought further information to deal with the discrepancies between the red and blue line boundary as well as sought design improvements for the proposed gateway.

3.3.2. **Other Technical Reports**

Conservation: The final report considered that the revised design for the proposed painted hardwood gates acceptable.

Transportation: No objection, subject to safeguards.

Drainage: No objection, subject to safeguards.

3.4. **Prescribed Bodies**

3.4.1. None.

3.5. **Third Party Observations**

3.5.1. 2 No. Third Party Appeals were received by the Planning Authority during the course of their determination of this planning application. The main concerns raised related to built heritage impact; residential amenity impact; visual amenity impact; civil matters; potential for the proposed works to adversely impact on drainage; devaluation of property value; potential to adversely impact on the structural integrity of adjoining Protected Structure; noise and associated nuisances arising from the development proposed.

4.0 **Planning History**

4.1. **Site**

4.1.1. None

4.2. **Setting**

4.2.1. **P.A. Ref. No. D22A/0003:** Planning Authority granted retention permission for a development consisting of alterations to the front south west boundary iron railings and front garden to provide one off-street car parking space. Planning permission was also granted for the provision of permeable paving to car park space, new electrical

vehicle charging pillar, new footpath dishing and all associated site works at No. 8 Crosthwaite Park South.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Dún Laoghaire-Rathdown County Development Plan, 2022-2028, is the operative plan.
- 5.1.2. The site is subject to land use zoning 'A' which has the objective "*to provide residential development and improve residential amenity while protecting the existing residential amenities.*" Residential land uses are permitted in principle under this zoning objective.
- 5.1.3. The existing property on the site is a Protected Structure (RPS No. 1382) and is located in 'Croswaite Park' Architectural Conservation Area (ACA).
- 5.1.4. Policy Objective HER8 of the Development Plan which deals with the matter of works to Protected Structures sets out that it is a Policy Objective to:
- (i) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
 - (ii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage, and the Gaeltacht.
 - (iii) Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
 - (iv) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.
 - (v) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.

(vi) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.

(vii) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

(viii) Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.

(ix) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.

(x) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES)

5.1.5. Policy Objective HER13 of the Development Plan deals with the matter of Architectural Conservation Areas and set out that it is a Policy Objective to:

(i) Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).

(ii) Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.

(iii) Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.

(iv) Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.

(v) Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.

(vi) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving, and street furniture.

- 5.1.6. Detailed development management guidance concerning works to a Protected Structure is set out in Section 12.11.2.1 of the development plan. In summary, interventions should be kept to a minimum and all new work should relate sensitively to the fabric, scale, proportions, and design of the structure. Original features and plan forms should be retained, and new work should be readily identifiable. Works should be carried out to the highest possible standard, under the supervision of a conservation specialist. In addition, planning applications must include an Architectural Heritage Impact Assessment in accordance with the requirements of the 'Architectural Heritage Protection Guidelines for Planning Authorities.'
- 5.1.7. The guiding principle of ACAs is to protect the special external expression of the buildings and the unique qualities of the area to ensure future development is carried out in a manner sympathetic to its distinctive character.

5.2. National

5.2.1. **Architectural Heritage Protection Guidelines for Planning Authorities (2011).**

This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures.

With regard to curtilage, Section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within the curtilage or attendant grounds of a protected structure, a site inspection should be carried out by the planning authority in order properly to understand the potential effects of the proposed development.

Section 13.3.2 states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and

when considering any proposals to alter such features, certain criteria must be considered.

Section 13.4 of the guidelines deal with features within the Curtilage of a Protected Structure or its Attendant Grounds and indicates that proposals to remove or alter boundary features could adversely affect the character of the protected structure and the designed landscape around it. It goes on to state that while some minor changes may be granted planning permission, the cumulative effect on the character of the street or area of a series of incremental changes may not be acceptable.

Section 13.7.7 and 13.7.8 of the guidelines relate to the matter of Car Parking and indicates that the loss of garden may seriously affect the setting and character of a protected structure or of an ACA. It sets out that careful consideration should be given to the location of the car park spaces to avoid damage to the character of the structure or its attendant grounds. The demolition of garden walls and the combining of two or more areas of garden to provide car parking within an urban area should be avoided. Where it is necessary to provide car parking, efforts should be made to minimise its impact by careful design and use of materials. The associated alteration of boundary features should not be permitted unless the changes are considered not to be damaging to the character of a protected structure or of an ACA and would not result in inappropriate cumulative changes.

5.3. Natural Heritage Designations

5.3.1. None within the zone of influence.

5.4. EIA Screening

5.4.1. See completed Form 2 on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The Board is sought to overturn the decision of the Planning Authority on the basis that their decision does not take adequate cognisance of the character of the Protected Structure and its setting.
- The amalgamation of the laneway and front garden of No. 12 Crosthwaite Park to provide a car parking bay and turning area would undermine the urban morphology of the area.
- This proposal would result in the loss of significant historic built fabric.
- The Planning Authority's Conservation Officers report failed to examine the impact of the demolition of the boundary wall which is important to the character of the Protected Structure and the ACA. In addition, the provision of a second gate is incongruous to the character of the Protected Structure and the pattern of development of these two terraces.
- The applicant has not provided justified the demolition of the historic wall.
- The Architectural Heritage Guidelines advise against the demolition of garden walls or amalgamation of laneways and gardens.
- This laneway provides a right of way to other landowners bounding it.
- The Planning and Development Regulations, 2001, as amended requires planning application drawings to clearly show rights of way in yellow.
- The proposed second gate impedes an existing right of way.
- The plans do not clarify the impact of the works proposed which bound their property. The abuttal of the proposed second gate piers onto their gable wall together with excavations for its foundations for a pier and the like would adversely impact on the historic building fabric of No. 10 Crosthwaite Park South which is also a Protected Structure.

- The provision of a drain alongside their gable wall could give rise to dampness and it could undermine the structural soundness as well as stability of their gable wall.
- At present they have unimpeded access across the laneway from the street gates which remain open at all times. The erection of a second gate across this right of way would impede this and interfere with the enjoyment of their property.
- The proposed development would seriously injure residential amenities and it would depreciate the value of property in its vicinity.

6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- The historic railings and wall to the front garden of the property are not being interfered with.
- The removal of modern insertions and replacement with new cast iron gates and railings replicating already existing historic railings and including granite plinths would contribute to the streetscape character positively.
- These works would not undermine the historic morphology of the area.
- The loss of the low rendered wall boundary will have a minimal impact.
- The secondary gate and piers are a necessary security measure.
- It is envisaged that the gates will remain open at most times to provide access to the proposed parking area in front of No. 12.
- The proposed piers and gates will be entirely independent from the gable walls of both No. 12 and No. 10.
- The drainage channels have been constructed on their property by the owners of No. 10 without their permission. These would not be interfered with.
- They are the registered owners of the laneway from the street to the rear of their property and the proposed development would not restrict or impinge on rights of way currently enjoyed by other residents.

6.3. **Planning Authority Response**

- 6.3.1. On the 7th day of February, 2023, the Board received the Planning Authority's response. It requested the Board to have regard to their Planning Officers Report. It indicates that the grounds of appeal do not raise any new matters which would justify a change of their attitude towards the proposed development.

6.4. **Observations**

- 6.4.1. None received.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. In my considered opinion the key issues in this appeal are those raised in the grounds of appeal. I therefore propose to address them under the following broad headings:

- Legal Interest and Procedural
- Built Heritage.

- 7.1.2. The matter of '*Appropriate Assessment*' also requires examination.

- 7.1.3. For clarity, my assessment below is based on the proposed development as revised by the applicant's further information response which was received by the Planning Authority on the 14th day of November, 2022. This is on the basis that it proposes a more qualitative and site setting sympathetic design response in the context where No. 12 Crosthwaite Park South, is a Protected Structure, and forms part of a coherent group of Protected Structures that are also afforded further protection by way of their designation as part of 'Croswaite Park Architectural Conservation Area' under the Development Plan.

7.2. **Legal Interest and Procedural Matters**

- 7.2.1. At the outset I note that issues to do with encroachment over rights of way, way leaves and property boundaries are not matters which can be decided on in this forum. They are civil matters between affected parties, and I can only undertake my assessment based on the information before me. I am satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application. Although

it would appear that they have potentially not accurately disclosed that the laneway running along the eastern side of the site contains rights of way and wayleaves in the interest of other Third Parties, including but not limited to the Appellant in this appeal case who appears to legally have a right of way and a way leave on this land.

- 7.2.2. Further, it would also appear from the Third-Party submissions received by the Planning Authority that other property owners in the terrace group No. 12 Crosthwaite Park South forms part of have also the benefit of a right of way over the eastern portion of the site, i.e., over the existing laneway.
- 7.2.3. I also note that the First Party sets out whilst they propose an additional gate over what is *in situ* that it is not proposed by them, despite being legal owners of the lane, to block any access or disrupt any drainage provisions associated with other properties that may have been carried out on the lane in the past. As such they propose that the replacement gate onto Crosthwaite Park South and the proposed gate between No.s 10 and 12 Crosthwaite Park South would not be kept unlocked.
- 7.2.4. The Appellant contends even if both gates are not fitted with any locking mechanism the provision of an additional gate on the lane which is their sole means of access to their off-street car parking space and is also generally used by them would in itself result in additional nuisances in terms of time and awkwardness over and above the existing situation. This they object to.
- 7.2.5. I consider that these additional nuisances are also matters that would require resolution between all parties involved and impacted by the proposed development sought under this application.
- 7.2.6. The matter of the implications of potentially the First Party in this case not accurately detailing the existence of a right of way and/or way leaves on the eastern side of the appeal site is a validation issue with the matter of validation of a planning application falling under the remit of the Planning Authority. The Board could if they deem it prudent to do so seek, by way of further information, clarity on legal interests of the site including revised drawings setting out the presence of rights of way and/or way leaves.
- 7.2.7. For clarity, however, in carrying out my assessment I have considered the potential of the proposed development to interfere with rights of way and/or way leaves. Particularly in terms of the replacement of existing gate onto Crosthwaite Park South,

the placement of proposed pillars and gate between No.s 10 and 12 Crosthwaite Park South, the use of the existing lane to gain access and egress to the setback area to the front of No. 12 Crosthwaite Park South in order to use the proposed off-street car parking through to surfacing of the laneway between the replacement gate and the proposed aforementioned gates and pillars.

- 7.2.8. As in all such cases, the provisions provided for in Section 34(13) of the Planning and Development Act 2000, as amended, applies. It stipulates that a person shall not be entitled solely by reason of a planning permission to carry out any development. I also note the provisions of Section 5.13 of the Guidelines for Planning Authorities, Development Management, 2007 in this regard. I therefore recommend that if the Board is disposed towards a grant of permission, that a note be attached to any such grant advising the applicant of the provisions of section 34(13) of the Planning and Development Act 2000.

7.3. Built Heritage Impact

- 7.3.1. No. 12 Crosthwaite Park South is a Protected Structure (Note: RPS No. 1382, description 'house terrace') that forms part of a Victoria terrace group of two originally highly coherent in their overall architectural built form and appearance period dwellings as appreciated from the public domain. All terrace dwellings within these two groups that address the northern side of Crosthwaite Park South are afforded individual protection by way of their designation as Protected Structure. The Planning and Development Act, 2000, in defining 'Structures' sets out the following: 'any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure' and in relation to a 'Protected Structure', the meaning as is relevant to this appeal case is expanded to include but not limited to: 'the land lying within the curtilage of the structure; any other structures lying within that curtilage and all fixtures and features which form part of the exterior of such structures'.
- 7.3.2. As set out under Section 5 above the Development Plan seeks to protect such structures from any works that would negatively impact upon their special intrinsic character, appearance through to integrity.
- 7.3.3. This includes but is not limited to Policy Objective HER8, with this policy setting out a number of criteria including but not limited to any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage

Protection Guidelines for Planning Authorities'. No. 12 Crosthwaite Park South, the subject terrace group it forms part of and the terrace group to the east of it are comprised of terrace dwellings each individually designated as Protected Structures.

- 7.3.4. In addition, No. 12 Crosthwaite Park South, the two terrace groups it forms part of, all form part of a larger urbanscape whose period architectural merit is afforded protection as the 'Croswaite Park' Architectural Conservation Area (ACA) under the Development Plan. The PDA, 2000, as amended, defines such ACAs as: *"a place, area, group of structures or townscape, taking account of building lines and heights, that is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or that contributes to the appreciation of a protected structure, and whose character it is an objective of a development plan to preserve"*.
- 7.3.5. As set out in Section 5 above the Development Plan includes Policy Objective HER13 which sets out that the Council will seek to protect the character and special interest of ACAs.
- 7.3.6. The proposed development consists of the removal of a section of wall between the lane and front garden of No. 12 Crosthwaite Park South in order to provide for off-street car parking and including the installation of an electrical vehicle charging point. It also includes the removal of an existing vehicle gate to lane and replacement with wrought iron vehicular gate with side pillars alongside the erection of painted hardwood gates in lane hung on two rubble granite pillars in the lane set behind the frontage of No. 10 and 12 Crosthwaite Park South.
- 7.3.7. In relation to the various components of the proposed development I firstly concur with the Planning Authority in relation to the replacement of the existing wrought iron vehicular gate and its associated non-original metal railing components. This is on the basis that these later built features are not sympathetic to the roadside boundaries that characterise the subject Protected Structure itself and the two terrace groups it forms part of. These particular later additions to the streetscape scene of Crosthwaite Park South, though light weight in their appearance and manner of construction, are of an inferior quality and of limited merit manmade insertion. With the overall design of its metal components visually jarring with as well as being at odds with the original roadside boundary of both terrace groups as well as other period boundaries that characterise this period streetscape scene. Unfortunately, as a result their presence

visually diminishes the visual integrity and coherence of both terraces when viewed from the public domain given their central placement between the two terraces. Alongside this is reinforced by the fact that they are also roughly centrally located along the northern stretch of Crosthwaite Park South whose alignment changes to a northerly direction alongside a detached early twentieth century property that adjoins the subject terrace group on its western side. In addition, its visibility is added to by the fact that it is associated with a dividing laneway between the two terrace groups that stretches in a northerly direction thus sharing the alignment and orientation of the individual terrace dwellings within these highly uniform and coherent with one another plots.

- 7.3.8. As such their replacement with more qualitative iron railings, gates and associated built features with a design that harmonises with the original roadside boundaries of this consciously designed and laid out to be highly coherent, particularly those on the roadside boundary of No. 12 Crosthwaite Park South to their immediate west and No. 10 Crosthwaite Park South to the immediate east that survives intact to the present day is a type of development that would positively contribute to restoring this consciously designed and laid out collection of buildings, structures and spaces. In so doing by reversing the incremental damage arising from these unsympathetic roadside boundary treatments in an extremely sensitive to change and architecturally rich urban scene it would positively contribute to the setting of No. 10 and 12 Crosthwaite Park South as Protected Structures.
- 7.3.9. As well as these positive outcomes it would also contribute to the quality of other neighbouring Protected Structures to the east and west alongside as appreciated in their streetscape scene.
- 7.3.10. I therefore consider this component of the proposed development would positively enhance the streetscape scene of this Architectural Conservation Area in a manner consistent with Policy Objective HER8 and HER13 of the Development Plan as set out in Section 5 of this report.
- 7.3.11. In addition, it is consistent with reversibility approach and seeking that alterations positively contribute to Protected Structures as advocated under Section 7 of the Architectural Heritage Protection Guidelines. With Section 7.8.3 of the Guidelines, in relation to additions and alterations stating that: it should be remembered that these

will, in their turn, become part of the structure's history and so it is important that these make their own positive contribution by being well designed and constructed.

- 7.3.12. As detailed above the proposed development also includes the removal of a 6.75m stretch of original boundary wall that separates the setback area to the front of No. 12 Crosthwaite Park South and the adjoining lane in order to provide garden for off-street car parking and including the installation of an electrical vehicle charging point.
- 7.3.13. Whilst this boundary wall is not overly ornate in its own right it is nonetheless part of the original simpler side and rear boundary wall treatments of this consciously designed terrace group. As viewed from the public domain its simplicity together with its patina of age sits comfortably within its setting of No. 12 Crosthwaite Park South and it harmonises with the side boundary to the front of No. 10 Crosthwaite Park South. No. 10 Crosthwaite Park South I note is the matching end of terrace Victorian property on the western side of the terrace pair the subject site forms part of.
- 7.3.14. This boundary wall consists of stone and render with rounded render capping over. Its design and materials match that present on the western front side boundary of No. 10 Crosthwaite Park South. With both bounding a laneway that runs alongside No. 10 and 12 Crosthwaite Park South. But with the laneway itself forming part of the red line site area depicted in the accompanying planning application documentation. In its present form, like the side boundary of No. 10 Crosthwaite Park south it is a solid low wall that runs from the front elevation of No. 12 Crosthwaite Park South with a north south alignment with no openings from either property semi-private domain.
- 7.3.15. As such this boundary wall not only demarcates the linear pattern of the rectangular plots that these Victorian terrace dwellings form part of in a manner consistent with its neighbouring terrace dwellings to the east and west. But also, the boundary itself encloses the semi-private amenity of the setback area to the front of No. 12 Crosthwaite Park South in a manner that matches the adjoining end of terrace property of No. 10 Crosthwaite Park South. In so doing in the case of No. 12 Crosthwaite Park South they emphasised the width of each semi-private front garden space as a formal space that originally facilitated pedestrian access from the street with this access emphasised by the more ornate detailing of the pedestrian gates and the raised granite steps that provided an elevated front door entry point with the remaining space at street level originally comprising of soft landscaping but now mainly gravelled.

Whereas the unbuilt space between No.s 10 and 12 Crosthwaite Park South had a different function of providing a service access lane to in more modern times vehicle access and egress to the side as well as rear of these properties.

- 7.3.16. The proposed design as revised shows the removal of 6.75m of original wall is required in order to use the semi-private domain, i.e., the setback area to the front of No. 12 Crosthwaite Park South as an off-street car parking area with no legibility of the presence of this wall remaining. With that void being finished with gravel surfacing the same as that for the main setback area. In addition, this gravel surface finished would be continued to where it would meet the proposed rubble granite pillars between which a painted black hardwood gate would be hung. With these features positioned between No.s 10 and 12 Crosthwaite Park South in line with their front facades.
- 7.3.17. Effectively this would give rise to the appearance of No. 12 Crosthwaite Park South having an extended semi-private domain that extends in an easterly direction beyond its current layout and with the laneways function blurred by the lack of any enclosure and physical definition. This contrasts with the majority of the Victorian terrace buildings within the two groups that address the northern side of Crosthwaite Park South whose side boundaries of their semi-private amenity area between their front elevation and the road correspond with the width of their front facades.
- 7.3.18. Having regard to the Development provisions it is a concern that the area indicated for the off-street car parking space having a depth of c5m falls short of the requirements set out under Section 12.4.8.1. This section of the Development Plan states: “*each car parking space for a residential dwelling shall have a minimum length of 5.5 metres depth to ensure the parked car does not overhang.*” In the absence of this depth there is potential for a vehicle parked on the proposed off-street car parking space to overhang onto the laneway area which appears to function as a right of way to not only No. 12 Crosthwaite Park south but also other properties. This together with the additional manoeuvring arising from accessing and egressing the proposed car parking space from the lane could potentially give rise to obstruction on this lane and diminishment of its function in providing access for other properties that have the legal benefit of a right of way over it.
- 7.3.19. It is also a concern that Section 12.4.8.3 of the Development Plan, in relation to Driveways and Hardstanding Areas, sets out that: “*a minimum of one third of front*

garden areas should be maintained in grass or landscaped in the interest of urban greening and SUDS.” This would not be achieved.

- 7.3.20. In addition, the design as proposed includes no surface interpretation reference to provide definition to these two spaces that historically and as established to this point in time maintain their original and distinctive design as well as land use function.
- 7.3.21. For example, it is not uncommon in the context of alterations to the curtilage of a recognised architecturally important building and/or space to include in the design resolution some acknowledgement to the original layout and spatial relationship of associated features including where historical features such as walls are removed so that the original design intent still can be interpreted.
- 7.3.22. In the context of this terrace property something as simple as a change in material and/or a linear run of cobbles along the route of the 6.75m stretch of boundary to be removed would acknowledge the two different spaces. Particularly in the context where it is the case that the width of the laneway despite needed for the turning movements associated with the access and egress of the proposed off-street car parking space in the semi-private front garden amenity space would still maintain its consciously designed purpose and function. That is as a service/laneway for a number of properties within the two terrace groups to the east and west of it despite it forming part of the red line area of No. 12 Crosthwaite Park South.
- 7.3.23. Such a definition of space in the ground would also help to preserve the distinctive visual difference of the laneway. As opposed to it having the appearance of an extended in width semi-private domain that is visually reinforced by the enclosure that would be created by the proposed rubble pillar and painted solid wood gate. The laneway as viewed from the public domain would for its stretch between the front elevations of No. 10 and 12 Crosthwaite Park South would not be legible as such with it effectively being legible as part of the semi-private amenity space of No. 12 Crosthwaite Park South.
- 7.3.24. While I acknowledge that the proposed design maintains the presence of a mature tree to the front of No. 12 Crosthwaite Park South together with the original roadside boundaries to the front of this property. With this in part helping to protect and conserves the special character as well as built fabric intactness of features within its curtilage. Where it forms part of a context where these in the case of neighbouring

properties within the two Victorian terrace groups on the northern side of Crosthwaite Park South have been eroded by the removal of original roadside boundaries and semi-private amenity spaces. I note that these interventions have limited consistency with planning policy provisions now in force. These similar in intent alterations of boundary treatments through to the removal of soft landscaping to facilitate off-street car parking have unfortunately resulted in incremental cumulative damage of both of these attractive and otherwise highly intact Victorian terrace groups as appreciated from the public domain. This arises from the visual diminishment of the original design intention of these terraces, the loss of original built fabric through to changed relationship between their hierarchy of buildings, structures, and spaces.

- 7.3.25. It is also of note that the public domain of Crosthwaite Park South includes the provision of on-street permit parking. In this regard there is an off-street car parking space present to the front of No. 12 Crosthwaite Park South's roadside boundary.
- 7.3.26. In relation to this space the Planning Authority's Transportation Planning whilst raising no objection to the proposed development this was subject to the applicant arranging the removal of the existing 'Pay and Display' parking bay (or part of) as a result of the proposed vehicular entrance at the applicant's expense as well as pay a fee/charge for the loss of this space (or part of).
- 7.3.27. In addition, at the time of inspection there was available on street car parking and with the early Twentieth Century period properties on the opposite side of the street containing vehicle entrances and in-curtilage parking.
- 7.3.28. There is also no justification provided by the applicants as to why other avenues to provide off-street car parking and a vehicle charging point cannot be achieved to the rear of this Protected Structure. Particularly given the built heritage sensitive architectural urbane that No. 12 Crosthwaite Park South forms part of..
- 7.3.29. Though the creation of an off-street car parking space is not at odds with the pattern of development that has occurred to Victorian terrace properties on the northern side of Crosthwaite Park South. And as said the proposed development includes removal of unsympathetic roadside boundary treatments which is a type of development to be welcomed. Alongside the provision of a vehicle charging point also gives rise to no substantive concerns as this would not be a highly visible element as viewed from the public domain and would if carried out in a sympathetic manner be a type of

development that could be reversible. Notwithstanding, the other remaining components of the development proposed in my considered opinion gives rise to a number of substantive planning concerns.

7.3.30. These components include the removal of the 6.75m boundary wall and the creation of an L-shaped gravelled area with part accommodating one off street car parking space with the other providing the necessary additional space off street for vehicle manoeuvres associated with the use of this space. Whilst the eastern portion of the site maintaining its function as an access and service route running between No.s 10 and 12 Crosthwaite Park South. But also appearing to function as an access and service route for other properties within the subject terrace group No. 12 Crosthwaite Park South forms part of.

7.3.31. This proposal also includes the provision of two rubble granite pillars each with a width of 1.025m and with these pillars supporting a painted hardwood gate of 2.9m between the front façade edge of No.s 10 and 12 Crosthwaite Park South. Altogether the proposed alterations and the addition of the proposed granite rubble pillars and hardwood painted gate, built structures that would have a height of c1.9m at their tallest measured point, would visually and functionally materially change the relationship between the two terrace groups that No.s 12 and 10 Crosthwaite Park South form part of. Though improvements have been made to the design of the proposed gate and pillars to be erected in the c4.95m space between No.s 10 and 12 Crosthwaite Park South by way of the further information response submitted by the applicant. Notwithstanding, these insertions are out of character not just as new man-made insertions but also they are features that change the building to space relationship of these consciously designed architectural set pieces that now form part of and positively contribute to an Architectural Conservation Area.

7.3.32. They are also positioned at a sensitive transition point within the curtilage of No.s 12 and 10 Crosthwaite Park South. This is by way of their proximity to both of these Protected Structures but also their placement aligning with the front building line of these two terraces as well as consisting of a palette of materials that is not consistent with that which characterises these buildings exterior treatment. As well as a palette of materials through to design treatment that is at odds with boundary and gate features of these properties, the sensitive to change pair of Victorian terraces and

those present on the northern side of Crosthwaite Park South observable from the public domain of the ACA streetscape setting.

- 7.3.33. Of concern in terms of the drawings accompanying this application the proposed contextual drawings submitted with this application omit the proposed pillars and hardwood gate despite them being of a height and built form that would be observable from the public domain.
- 7.3.34. In addition, their height as well as solidity being such that together with the north south alignment of the laneway that they are to be placed on through to their proximity of basement windows on the side elevations of the adjoining Protected Structures they would effectively diminish light penetration into these basement levels that are designed to be living spaces. Whilst this diminishment of light may not be a concern of the First Party it is a consideration in terms of the diminishment of residential amenities for future occupants and similarly for current as well as future occupiers of No. 10 Crosthwaite Park South.
- 7.3.35. Further, No. 12 Crosthwaite Park South benefits from a rear garage structure that is accessible from the existing lane via a vehicle width roller door shutter opening. There is no robust justification given as to why this structure and/or space to the rear of No. 12 Crosthwaite Park South could not accommodate additional off-street car parking and the provision of an electrical charging point given that at these locations are not highly visible from the public domain. Through to at these locations there would be less loss of original built fabric from features that are associated with the original semi-private amenity space and the laneway running alongside No.s 10 and 12 Crosthwaite Park South.
- 7.3.36. Moreover, the documentation provided does not allay any concerns that the manner in which the rubble granite pillars would be constructed would not impact on the integrity of No. 12 and 10 Crosthwaite Park South. Properties that date to Victorian period with the methodology of construction being one that incorporated high levels of built fabric breathability with this in turn being easily prone to dampness through often not being as robust structurally as more modern buildings.
- 7.3.37. On this point I note whilst the First Party indicate that the rubble granite pillars would not be constructed against the side elevations of these adjoining Protected Structures. Of concern this is not shown in the submitted drawings. Nor is there any clarity as to

the impact the provision of two such solid and heavy pillar structures and their associated foundations would have on these structures even if constructed with a separation gap.

7.3.38. Whilst such solid pillars and gates would provide additional privacy it is a concern in my view that the opportunity to provide a lighter weight intervention was not decided upon by the First Party as part of their further information response. Given that for example a design which echoed the cast iron railings, and their support structures would be less impactful and would still provide security whilst still allowing openness for the laneway when viewed from the public domain so that its function and original to present day function was clearly legible. In addition, the high solid walls to the rear of No. 10 and 12 Crosthwaite Park South limit views from the public domain into their private open space amenity.

7.3.39. In terms of the Development Plan provisions in relation to ACA's and Protected Structures, Section 12.4.8.4 recognises that: *“features such as walls, railings and gardens contribute to character and setting of Protected Structures and those areas which have been identified as ACAs and cACAs.”*

7.3.40. It also sets out that: *“poorly designed off-street parking which involves the removal of boundary walls, gate piers, railings and gates can have an effect on the setting and appreciation of the building, groups of buildings and the wider streetscape and will not generally be permitted”* and crucially in the context of this proposed development *“where existing rear site vehicular access exists or can be easily provided, off-street parking to the front will generally not be permitted”*. It further sets out a number of considerations for this type of application including but not limited to:

- *“Retain a significant amount of soft landscaping and planting to reduce the visual impact of the parked car.”*
- *“Where favourable site conditions exist minimum intervention, integration and reuse of materials will be the key considerations.”*

7.3.41. This in my view reinforces the concerns I have raised above in relation to the both the provision of the car parking space and the rubble granite pillar as well as solid wood gate which are sought under this application.

- 7.3.42. In this context the design of these particular components of the proposed development would result in a car parking space that fails to meet the minimum required spatial standards of the Development Plan; would result in the unreversible loss of original built fabric and in so doing dilute the original design intent and intactness of its buildings, structures, and spaces, for the host dwelling and the two subject architecturally of merit terrace groups it forms part. Through to the rubble pillars and hard wood gate would visually be an incongruous feature that would not only diminish the residential amenities of the basement living spaces of No.s 10 and 12 Crosthwaite Park South alongside they are likely to give rise to more associated nuisances given that the gates would have to be opened and closed to facilitate ad hoc access as well as egress with this likely giving rise to more noise, light and other issues for occupants of these properties. As well as they would materially alter the visual interpretation of the laneway as viewed from the public domain and the unbuilt nature of this space that provides purposeful visual separation between these two Victorian terrace groups.
- 7.3.43. For these reasons, whilst I consider that the replacement gates would give rise to visual built heritage improvements for the setting of No. 12 Crosthwaite Park South and other Protected Structures that form part of the two Victorian period terraces that occupy the northern side of Crosthwaite Park South to the east and west as well as the overall visual contribution of this Protected Structure to its Architectural Conservation Area setting, notwithstanding, I consider to permit the other components of the proposed development would be contrary to the Development Plan provisions in particular Policy Objectives HER8 and HER13 that seek to protect and safeguard Protected Structures and Architectural Conservation Areas from inappropriate development.
- 7.3.44. Moreover, I also consider that these components of the proposed development are also contrary to the guidance set out in the Architectural Heritage Protection Guidelines which both Policy Objectives HER8 and HER13 require regard to for any proposed alterations and additions to Protected Structures and Architectural Conservation Area.
- 7.3.45. For example, the said guidelines in relation to development within the curtilage of a Protected Structure where a formal relationship exists between it and its ancillary features sets out that development that interrupts that relationship should not normally be permitted (Section 13.5). In addition, it sets out that proposals should not have an

adverse effect on the special interest of a Protected Structure or the character of an ACA (Section 13.8) with Section 13.7.7 and 13.7.8 in relation to the matter of car parking in front garden areas of Protected Structures and/or ACA seeking avoidance of damage of character to the structure or its attendant grounds as well as sets out the combination of two or more areas to providing car parking within an urban area should generally be avoided. Moreover, they set out that associated alteration of boundary features should not be permitted unless the changes are considered not to be damaging to the character and setting of a Protected Structure or of an ACA and would not result in inappropriate cumulative changes.

7.4. Other Matters Arising

- 7.4.1. Removal of Existing Pay and Display On-Street Parking Space:** The Planning Authority's Transportation Department raised no objection to the proposed development subject to a number of safeguards. Including removal of pay and display on-street parking space or part thereof together with requiring the costs of these works to be burdened by the Applicant and a payment to be made to compensate the Planning Authority for the loss of this space. Given the relationship of the existing gate and entrance onto the public domain and that proposed associated with the replacement does not change the existing relationship with on-street car parking space provision to the east and west. In the context of omitting the removal of boundary wall as part of providing for a proposed off-street car parking space and electrical charging facility to the front of No. 12 Crosthwaite Park South and the pillars as well as gate structure between No.s 10 and 12 Crosthwaite Park South I consider these safeguards are not reasonable or appropriate.

Notwithstanding, should the Board deem that the off-street car parking space proposed is acceptable it is my considered opinion that there is potential for additional conflict to arise and/or obstruction when cars are accessing and egressing from this space given that it is dependent upon the laneway for turning movements given the lack of depth of the car parking provision proposed.

In this context the Board may consider that there is a need for removal or part removal of on-street car parking to the east and west to accommodate a dwell space in circumstances where such conflict arises with vehicles seeking access to the lane from Crosthwaite Park South but are unable to access due to such an obstruction arising.

In the interest of traffic safety for road users including vulnerable road users the removal of on-street car parking or part thereof these safeguards and compensatory measures are reasonable and appropriate.

The Board should however consider that this proposal would only achieve one substandard off-street car parking space, albeit a car parking space that would have access to an electrical charging point in the semi-private area to the front of No. 12 Crosthwaite Park South. Whereas the loss of on-street car parking spaces or part thereof, considering that the space to the west consists of one space and the space to the east consist of two spaces, that to create a dwell space on either side could effectively give rise to the loss of two spaces to achieve a safe outcome for traffic movements that would arise from this development including achieving improved sightlines. As such this would diminish opportunities for on-street car parking for properties on this road that do not benefit from off-street car parking on site through to limit capacity for visitors to this street to temporarily park. This I consider is not in the public interest for users of the public domain.

- 7.4.2. **Drainage:** The concerns raised on the matter of drainage could in my view be dealt with by way of an appropriately worded condition should the Board be minded to grant permission.
- 7.4.3. **Devaluation of Property:** The appellant raises concerns that the proposed development, if permitted, would give rise to devaluation of their property. This has not been substantiated by them by any expertly prepared assessment. In the absence of any expert evidence substantiating and supporting how as well as to what extent the devaluation of their property would arise should the proposed development be permitted I cannot make an informed assessment of this particular matter.
- 7.4.4. **Precedent:** Whilst I am cognisant that all planning applications should be determined on their individual merits I raise the concern that to permit the proposed off-street car parking space to the front of No. 12 Crosthwaite Park South and the removal of original boundary treatment within the setting of a group of coherent in architectural built form, layout and design Protected Structures within an Architectural Conservation Area would cumulative add to the incremental damage that has arisen on Crosthwaite Park South, particularly on its northern side from similar developments. This in turn would add to the diminishment of the visual amenities of this sensitive to change urban landscape in a manner that would be contrary to the proper planning and sustainable development of the area.

There is also merit to the concern that the Board as the Higher Authority has not permitted similar developments to that proposed in this type of urban setting with similar circumstances.

8.0 **Appropriate Assessment**

8.1. Having regard to the modest nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

9.0 **Recommendation**

9.1. I recommend a **split decision** as follows:

1) Grant Permission (subject to conditions) for:

- Removal of existing gates to lane and replacement with wrought iron gates with side pillars to match historic railings.
- All associated works relating to the removal of existing gates and their replacement.

For the reasons and considerations marked (1) below and subject to the conditions set out under, and

2) Refuse permission for:

- Removal of section of wall between the lane and front garden of No. 12 Crosthwaite Park South to provide off street parking including installation of an electrical vehicle charging point.
- Erection of painted hardwood vehicle gate hung from two rubble granite pillars and positioned between the front elevations of No.s 10 and 12 Crosthwaite Park South.

For the reasons and considerations marked (2) under.

(1)

Reasons and Considerations

Having regard to the residential land use zoning objective which applies to the site, the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028; the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts Heritage and the Gaeltacht in October, 2011; the consciously designed architectural character and visual as well as material coherence that characterises boundary treatments of this Protected Structure that forms part of a pair of Victorian Terraces that address the northern side of Crosthwaite Park South in a highly uniform manner; the pattern of development that characterises this architecturally rich urbanscape with this afforded protection as an Architectural Conservation Area; and the nature and scale of the proposed development which would reverse the visual damage arising from unsympathetic boundary treatments, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in design, form and scale and would not adversely impact on the character or setting of the Protected Structure (RPS No. 1382), or the setting of neighbouring Protected Structures that No. 12 Crosthwaite Park South forms part of by way of it being an end of terrace Victorian dwelling that forms part of a distinctive and uniform group of two consciously designed and laid out terrace groups or would it adversely diminish the special intrinsic character and quality of the Architectural Conservation Area. In addition, the proposed development would not seriously injure the residential amenities of properties in its vicinity or would it give rise to any additional traffic inconvenience for road users of Crosthwaite Park South. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 14th day of November, 2022, except as may be otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed 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.

Reason: In the interest of clarity.

2. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.

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

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services, and shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To secure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

Advisory Note

- 1) Section 34(13) of the Planning and Development Act, 2000, as amended, states that *'A person shall not be entitled solely by reason of a permission under this section to carry out any development'*.

(2)

Reasons and Considerations

The proposed removal of a section of wall between the lane and front garden of No. 12 Crosthwaite Park South to provide access to a off-street car parking space including the provision of an electrical vehicle charging point and the erection of a painted hardwood gate hung on two matching side pillars between the front facades of No.s 10 and 12 Crosthwaite Park South would be reason of their unsympathetic design and serious injury that they would give rise to in terms of the intrinsic special architectural quality, integrity and interest of No. 12 Crosthwaite Park South, a Protected Structure (RPS No. 1382), that forms part of a consciously designed, laid out, highly uniform and coherent pair of Victorian terraces whose individual properties are each afforded protection by way of their designation as Protected Structure, that together visually contribute to the architectural character and special interest of the 'Croswaite Park' Architectural Conservation Area.

It is also considered that these proposed alterations and additions to No. 12 Crosthwaite Park South would not only diminish the surviving features that form part of its consciously designed urbanscape setting but also it would diminish the appreciation of this Victorian terrace properties relationship with the laneway running between No.s 10 and 12 Crosthwaite Park South but also the proposed alterations and additions would be discordant features within the setting of this Protected Structure and the pair of Victorian terraces it forms part of. In turn they would diminish the contribution of No. 12 Crosthwaite Park South to the surviving intactness and legibility of this Victorian terrace pair original design. Particularly in terms of its designed relationship of building, structure, and spaces which now positively contribute to the intrinsic character and special built heritage interest of 'Croswaite Park' Architectural Conservation Area.

As such these components of the proposed development would be contrary to Policy Objective HER 8 of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, which seeks to protect Protected Structures from any works that would negatively impact upon their special character and appearance. It also seeks to protect the relationship between Protected Structures and any complex of adjoining buildings that form part of a designed landscape ensuring that its features including

stone walls, gardens and other associated curtilage features are safeguarded from loss and inappropriate change.

They would also be contrary to Policy Objective HER13 of the said Development Plan which seeks to protect the character and special interest of an area which has been designated an Architectural Conservation Area. This policy objective also seeks high quality and sympathetic design solutions for developments alongside advocating the retention of features that contribute to their special and intrinsic character.

Both of these Development Plan Policy Objectives are consistent with the guidance set out the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts Heritage and the Gaeltacht in October, 2011. In addition, these guidelines under Section 13.5 advocate that where a formal relationship exists between Protected Structures and its ancillary features that development that interrupts this relationship should not normally be permitted.

For these reasons it is considered that the proposed development would, therefore seriously injure the residential amenity and character of the area in a manner that would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Patricia-Marie Young
Planning Inspector

7th day of September, 2023.