

An  
Bord  
Pleanála

## Inspector's Report

**ABP317426-23**

<b>Development</b>	Demolition of garage, construction of house with new vehicular access from Limekiln Road, diversion of the existing storm water pipe and all associated ancillary site works.
<b>Location</b>	46 Limekiln Road Dublin 12.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD22A/0386.
<b>Applicant(s)</b>	John McWeeney.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	John McWeeney.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	October 11 <sup>th</sup> 2023.
<b>Inspector</b>	Ann O'Leary

## 1.0 Site Location and Description

- 1.1. The subject site is located within the curtilage area of a dormer style semi-detached dwelling at 46 Limekiln Road Dublin 12 in an urban area well served with community and transport infrastructure; the site extends circa 6-metres beyond its red-line boundary onto the riparian corridor of the River Poddle.
- 1.2. The existing dwelling is similar in design and road frontage to other dwellings that are a feature of the streetscape.
- 1.3. The site presents an extension / garage to the side of the existing dwelling and a lock-up shed to the rear.
- 1.4. The River Poddle and its associated riparian corridor is located circa 6-metres south of the red-line boundary of the site and connects to the Dublin Bay Special Area of Conservation at a distance of 8km via the River Liffey.
- 1.5. An existing surface water drain traverses the site of the proposed dwelling extending 6 metres onto the riparian corridor of the River Poddle and outfalls into the river.

## 2.0 Proposed Development

- 2.1. Demolition of an existing garage located to the side of the house:
- 2.2. Construction of a new dwelling with vehicular access from Limekiln Road.
- 2.3. Diversion of the surface water drain, repositioning its outfall location and the construction of a concrete precast headwall together with all other associated ancillary site works onto the 6 metres which extends beyond the site's red-line boundary onto the riparian corridor of the River Poddle. All at 46 Limekiln Road Dublin 12

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority refused permission for the following reasons:

- The applicant proposes to develop south of the site outside of its red-line boundary and infringes on the SDCC Development Plan 2022–28 under Green Infrastructure Strategy Map as the River Poddle GI Link L13
- The proposal contravenes GI3 objective 1 and GI3 objective 2 and would adversely impact the integrity of the riparian corridor regarding flood risk and management and biodiversity and ecosystem service provision, water quality and hydro morphology, and would not accord with proper planning and sustainable development and would be prejudicial to public health.
- The concerns of the Surface Water Drainage Department are still required to be addressed (details below)

## 3.2 Planning Authority Reports

### 3.2.1 Planning Officer's Report:

- Water Services Department recommends **permission to be refused** for the following reasons:

The proposed development would be prejudicial to public health for the following reasons:

- There is no 3-metre setback distance from the side of the 300 mm public surface water pipe. There is an existing structure located within the wayleave.
- There is no 5-metre setback distance between the proposed building and a soakaway to the rear of the site.
- Water services do not recommend diverting the 300mm surface water pipe which passes through the site to allow the proposed house to be developed as additional bends presented on a diverted surface water pipe increases the risk of blockages of surface water flow which would also increase flood risk upstream of the site.
- The proposed location where the pipe enters the River Poddle is not in ownership of the applicant and the proposed works are outside the red-line boundary of the proposed dwelling.
- The River Poddle connects to a Special Area of Conservation through the River Liffey. An appropriate assessment screening report has not been provided to the new infrastructure proposed on the River Poddle. This report would determine if further environmental impact assessment reports are required to assess the impact on the SPA
- An additional manhole is proposed and this together with moving the existing surface water sewer poses a risk of having a new pipe built in accordance with building regulations.

- There will be traffic loads over the proposed diverted surface water sewer which could damage the pipe and there is not sufficient cover level to surface water sewer.
- Lowering the surface water sewer increases the risk of water from the canal flowing back up to the surface water sewer.
- Roads Department: No objection
- Parks Department; No objection
- Water Services Department: state there is no significant flood risk (the risk is of a 1:1000-year flood event)

#### Other Technical Reports

- Uisce Eireann have no objection to the diversion of the surface water pipe.

### **Planning History**

4.1 A previous permission reference number SD 07A/0710 and SD 07A/0710EP approved the proposed development with the agreement of the Water Services Department which included the diversion of the surface water pipe.

4.2 The diversion was agreed following a request by the owners of the neighbouring property number 44 to accommodate the repositioning of the proposed dwelling thus aligning it with its 'parent' dwelling at number 46 and not with the dwelling at number 44.

### **5.0 Policy and Context**

## **5.1 Development Plan**

The Green Infrastructure Strategy Map 4.4 of the SDCC Development Plan 2022-2028 identifies the River Poddle link as a Secondary Green Infrastructure Link, L 13, to the M50 Green Infrastructure Riparian Corridor

It is development plan policy to manage riparian corridors for ecosystem service provision and sustainable water management.

It is a development plan objective to require hydro morphology assessment of development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity and ecosystem service provision, water quality and hydro morphology.

## **5.2 Natural Heritage Designations**

The Green Infrastructure Strategy Map 4.4 of the SDCC Development Plan 2022-2028 identifies the River Poddle as a Secondary Green Infrastructure Link, L13, with the M50 Green Infrastructure Riparian Corridor and is linked with the Dublin Bay SAC via the River Liffey.

## **5.3 EIA Screening**

5.4 Having regard to the nature and modest scale of the proposed dwelling and its location in a built-up area where water supply and sewerage facilities are available, together with the nature and modest scale of the proposed infrastructure onto the riparian corridor of the River Poddle I conclude that the necessity for the submission of an EIAR and carrying out of EIA may be set aside at an early stage.

## 6 The Appeal

### 6.1 Grounds of Appeal

#### Reason 1 for Refusal

- The purpose of Green Infrastructure 3 policy is to ensure that the natural, historical, amenity and biodiversity value of the County's watercourses are protected. The proposed development involves that an existing surface water pipe will outfall to the river at a slightly different location and a precast headwall will be constructed. The proposed headwall detail can be omitted and the existing headwall detail can be replicated if this is SDCC's preference. The works are minor and can be carried out by or under the supervision of the Planning Authority.
- The proposal seeks to upgrade a piece of aging public infrastructure and can only proceed with the agreement of all parties. The work outside of the site's red-line boundary cannot be undertaken without the consent of the local authority which was previously granted in 2008.
- The proposed works will involve the clearance of some existing hedgerow and scrub; impacts on the ecological function of the riparian corridor would be minor and temporary in nature. The strip of land outside of the red-line boundary is private, is not nature rich or historical, is not readily accessible and is not a public amenity. Therefore, the riparian value of watercourses as expressed in Policy GI3 is not being compromised by the proposed development.

#### Reason 2 For Refusal

The objections of the Surface Water Drainage Department have been addressed in the Downes Associates Response document prepared on behalf of the applicant and is summarized as follows.

- There will be a 3-metre distance between the side of the surface water pipe and the proposed dwelling as the existing structure (garage) will be demolished thereby creating a wayleave. The revised separation distance

between the foul pipe and the diverted surface water pipe is more than 1-metre which meets the requirements of Irish Water.

- There is no soakaway proposed to the rear of the proposed dwelling so the required 5-metre setback is redundant.
- There will be no change to the existing angle bend of the surface water pipe to be diverted, all pipework changes of direction are more than 90° so there will be no increased risk of flooding. The angle of the pipe to be diverted is not against the direction of flow and will not block surface water entering the canal so there is no increased risk of flooding. In addition, a new non-return valve is proposed for the pipe where it enters the River Poddle.
- The new infrastructure, a precast concrete headwall, proposed for the River Poddle outside the site's red-line boundary is a simple and common outfall detail which can be omitted if required.
- Screening for an appropriate assessment is outside the remit of the civil engineer's report.
- All works will be carried out in accordance with the local authority requirement and the new manhole and diverted pipe will be constructed by or under the supervision of SDCC at the applicant's expense
- In line with standard practice a 150 mm concrete surround will be provided to the pipe in accordance with section 11.8.2 of the Greater Dublin Regional Code of Practice for Drainage Works for cover to trafficked pipes less than 1200 mm. It should be noted that there is currently traffic loading of the existing surface water pipe which has not impacted on the existing route to date.
- The proposed outfall level will match the existing one and there will be no need to reduce the level of the surface water pipe. The proposed pipework



is in effect shorter than the existing which will result in an improved gradient. As noted above a new tide flex non-return valve will be provided which would mitigate the risk of the canal backing up the surface water sewer.

- The Site-Specific Flood Risk Assessment concludes that the proposal will not increase the risk of flooding to adjacent or nearby areas and the provision of a non-return valve at the outfall will mitigate an existing flood risk to the area. The Planning Officer's report confirms that there is no objection to the Flood Risk element of the proposal. The allegation of Flood Risk is therefore without substance and cannot be sustained.
- An EIAR is not required as the Planning Authority screened out both an Appropriate Assessment and an Environmental Impact Assessment in the Planning Officer's Report.

## **6.2 Applicant Response**

None

## **6.3 Planning Authority Response**

None.

## **6.4 Observations**

None.

## **6.5 Further Responses**

None

## **7.0 Assessment**

### **7.1 Planning Assessment**

- The subject site is located within an area zoned Residential and is well served by community and transport infrastructure; it extends south 6- metres beyond its red-line boundary onto the riparian corridor of the River Poddle which has been identified in the SDCC Development Plan 2022-2028 as a Secondary Green Infrastructure Link, L13, in the M50 Riparian Corridor and is linked via the River Liffey to the Dublin Bay Special Area of Conservation located 8km to the north. An existing surface water drain traverses the subject site and outfalls onto the River Poddle.
- The proposed development requires the diversion of the surface water drain and repositioning of the outfall location into the River Poddle together with the installation of a concrete precast headwall within the riparian corridor to allow the proposed dwelling to be set back and aligned with its 'parent' dwelling, number 46, as was requested by the residents of the neighbouring property number 44.
- A Previous planning permission was granted SD07A/0710 & SD07A/0710EP which included the diversion of the surface water drain and repositioning of the outfall location with the approval of the Water Services Department; It is likely that Green Infrastructure Policies and Objectives had not been a feature of the SDCC Development Plan when permission was first granted in 2008.
- The planning authority states that the proposed development contravenes Green Infrastructure Objective 1 and Objective 2 of the SDCC Development Plan 2022-2028 together with Green Infrastructure Policy on the management of riparian corridors by the diversion and repositioning of the surface water pipe and outfall location onto the Riparian Corridor of the River Poddle which runs south of the site.

- The technical issues on which the Water Services Department have recommended refusal have been addressed in the response to the request for additional information / clarification of additional information; no response has been noted from the Water Services Department.
- The planning officer recommends that a solution be found to utilize the existing drain by consultation between the applicant and the Water Services Department.
- The applicant is willing to engage in consultation with the Water Services Department and to work with / under the direct supervision of SDCC at his own expense in the diversion of the surface water drain and repositioning of the outfall location. He is willing, if required by SDCC, to omit the concrete precast headwall detail.
- Design and other details of the proposed dwelling have been agreed with the planning authority.
- The repositioning of the proposed dwelling has been agreed with residents of the neighbouring property in number 44 to eliminate any overbearing impact of the development on their property.
- There is no objection from the Roads Department and the Parks Department of SDCC to the proposed dwelling with its additional vehicular access from Limekiln Road.

## **7.2 Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, being clean surface water, the minor and temporary nature of construction work within the riparian corridor, the nature of receiving environment as a built-up urban area and the distance from any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

## 8 Recommendation

I recommend that **permission be granted** for the proposed development as detailed in the planning application SD22A/0386 and clarified in the request for and receipt of additional information.

### 9.0 Reasons and Considerations

The subject site is located within an urban area zoned Residential that is well served with community and transport infrastructure and the proposed dwelling sits in visually within its streetscape, there are no objections from the Roads Department or the Parks Department of SDCC to the additional vehicular access from Limekiln Road. It is considered that this infill development is consistent with the County Development Plan and that any impacts on the riparian corridor of the River Poddle arising from the diversion of the surface water drain which traverses the site will be both minor and temporary and the impact on the Dublin Bay SAC will be negligible if any. Given that the applicant is willing to engage with and work under the supervision of the SDCC Water Services Department the proposed development is in accordance with the provisions of the SDCC County Development Plan 2022-2028 and with the proper planning and sustainable development of the area.

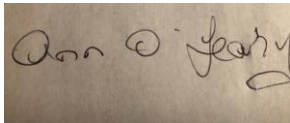
### 10.1 Conditions

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 on the 28th day of April 2023 and by the further plans and particulars received by An Bord Pleanála on the 03rd day of July 2023], 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
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	<p>with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the</p>

	<p>Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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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.



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Ann O'Leary  
Planning Inspector  
11th December 2023