



An
Bord
Pleanála

Inspector's Report ABP 320015-24

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| Development | Construction of a single mews type dwelling and all associated site works |
| Location | 33 Castlepark Road, Sandycove, Co. Dublin, A96 KC92 |
| Planning Authority | Dun Laoghaire-Rathdown Co. Council |
| Planning Authority Reg. Ref. | D24A/0238 |
| Applicant(s) | Timothy & Sinead Bouchier Hayes |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | 1st Party conditions and 3 rd Party |
| Appellant(s) | Timothy & Sinead Bouchier Hayes (First party) John Carroll (Third Party) Enda and Paula Roche and others (Third Party) Bryan Maguire (Third Party) |
| Observer(s) | None |
| Date of Site Inspection | 26/09/2024 |
| Inspector | Rosemarie McLaughlin |

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Appendix

Form 1: EIA Pre-Screening

Form2: EIA Screening

1.0 Site Location and Description

- 1.1.1. The appeal site with a stated area of 0.0282 ha is located in the existing rear garden (southeast) of No. 33 Castlepark Road, Sandycove, Co. Dublin and bounds a cul de sac, Hyde Park, to the southeast. No.33 is a large, set-back, detached house with mature and extensive planning on all boundaries. No.33 has been extended and a feature of the house is the large single storey conservatory located on the rear.
- 1.1.2. To the southeast of the appeal site is Hyde Park, which is a mature housing estate, accessed from the west side of Hyde Road. The cul de sac terminates at a low boundary wall where a pedestrian access between Hyde Park and Castlepark Road runs along the southwestern boundary of the appeal site. Between the low wall at the end of the cul de sac and the rear boundary wall of the appeal site, there is a planted triangular sliver of land illustrated within the appeal site.
- 1.1.3. While the general area is characterised by mature, detached and semi-detached houses on generous plots, the vicinity of the appeal site also includes two recently built, modern infill houses. To the south of the pedestrian laneway is a new infill house (No. 35C) at the rear of No.35A Castlepark Road, with vehicular access fronting onto Hyde Park. Adjacent to No. 20 Hyde Park which is the end house in the cul de sac (southwestern end) is a new two storey modern house and vehicular access on a narrow plot.

2.0 Proposed Development

- 2.1.1. The proposed development is described in the public notices as follows.

“Construction of a new part single storey, part two storey mews type dwelling over basement. Accommodation provided includes a basement storage and plant area, a kitchen, living/dining room, bathroom and family room at ground floor level and two bedrooms, two bathrooms and a study/home office at first floor level, together with all ancillary works including connections to existing services. The proposed development will also include the creation of a new vehicular and pedestrian access from Hyde Park together with the formation of a new vehicular entrance gate.”
- 2.1.2. The proposed T shaped flat roof dwelling, (288 sqm) is oriented towards Hyde Park . The rear elevation of the proposed house is located directly on the boundary with the reduced plot at No.33. The proposed private open space is located to the southeast

of the new dwelling. The single storey conservatory to the rear of No.33, is c. 12.9 m from the rear elevation of the proposed new dwelling. Windows are proposed only on the southeastern elevation, with the remaining elevations blank and various roof lights proposed. A c 1.5 m wall is proposed along the southeast boundary, which is c.2.3 to 2.5m distance from the proposed living area windows which extend c 1m above the height of the proposed wall.

- 2.1.3. The application was accompanied by a Design Statement, an Engineering Report and an Arboricultural Report. No. 33 is proposed to be reduced to a site area of 1456.42 sqm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The PA issued a notification to grant permission subject to 10 conditions. The conditions subject to the first party appeal are Numbers 2 and 5.

Condition 1. Standard condition

Condition 2. *Prior to the commencement of the development the Applicant shall submit to the Planning Authority for their written approval, revised plans illustrating the following modifications to the proposal: a) The floor to ceiling heights at ground floor level are to have a maximum height of 2.5m and at upper floor level, a maximum height of 2.4m. b) The upper floor Bedroom 1 window shall be reduced in size and replicate the size and form of the window for bedroom 2. c) The parapet surrounding the flat roof is to be constructed to a maximum height of approximately 200mm. REASON: To safeguard surrounding residential amenities.*

Condition 3. Condition restricting exempted development provisions

Condition 4. Condition regarding an alternative drainage design.

Condition 5. *Vehicle Entrance (a) The proposed front boundary treatment height shall not be increased for a minimum extent of 1metre either side of the proposed vehicular entrance, and the proposed front entrance return walls shall be no more than 1.1m in height in order to maintain adequate visibility between vehicles exiting the development and pedestrians, cyclists and vehicles on Castlepark Road. (b) The proposed gate shall be no more than 1.1m in height and not be automatically*

operated in accordance with Section 12.4.8.1 Vehicular Entrances and Hardstanding Areas General Specifications of the current DLRCC County Development Plan 2022-2028. (c) The proposed gates shall be inward opening and not automatic gates in accordance with Section 12.4.8.1 of the current DLRCC County Development Plan 2022-2028. REASON: In the interest of orderly development.

Conditions 6. Construction phase condition.

Conditions 7 to 10. Conditions relating to contributions and payment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. **Planning Report:** The planner recommended a grant of permission subject to the conditions summarised above. The large number of received observations were noted, the relevant planning policy outlined, and details of the relevant planning history are included in the report. The planning report notes a pre planning consultation request was made in March 2023, but no record of advice is on the file.

3.2.3. Other Technical Reports

3.2.4. **Drainage Planning Report (14/05/24):** Further information required. In summary, an alternative drainage arrangement was required in accordance with Section 10.2.2.6 Policy Objective EI6 of the CDP, specifically, that all surface water run-off is infiltrated or reused locally with no overflow to the public sewer (via a soakaway, raingarden, rainwater harvesting system, permeable paving designed with an allowance for roof discharge (e.g. diffuser box)) etc. If the applicant does not consider infiltration feasible, a report, by a Chartered Engineer, showing an infiltration test and shall propose an alternative SuDS measure for agreement with Municipal Services.

Transportation Report (22/5/24): No objection subject to 4 conditions which were incorporated into the conditions outlined above.

3.3. Prescribed Bodies

3.3.1. No referrals made.

3.4. Third Party Observations

- Chris & Clementine Horton

- Derval McDonagh & Barry O' Dwyer
- Marston Planning on behalf of Bryan Maguire
- Niamh & James Moloney
- Yvonne Duggan & Stephen Vard
- Declan & Rachel Morrissey
- Barbara Stack
- Paul & Victoria Cassidy
- Jean Moran
- Colm Davenport & Avril Durcan Davenport
- Mary Roberts
- James Morrissey
- Ruth & Keenan McGowan
- Colin Galavan on behalf of Justin Maguire
- Nuala & Peter Cannon
- Pat & Emer Torpey
- Garrett Hughes
- Enda & Paula Roche
- Anne & Philip Cathcart
- David Armstrong on behalf of John Carroll

3.4.1. The observations from the above named, raised similar objections and issues to the grounds of appeal, namely impact on residential amenity; traffic; parking; impact on cul de sac; overbearance; impact on safety of pedestrian laneway; overlooking; overdevelopment; inadequate private open space; trees and biodiversity; design; density; previous refusal on the site not overcome; impact on property values; character of area; contrary to the applicable development plan; precedent; and issue over right of way.

4.0 Planning History

4.1. Relevant planning history on subject site

4.1.1. **D23A/0390:** Permission was **refused** (8/08/23) for the following reason for development at rear of 33 Castlepark Road consisting of the construction of a new 2

storey mews type detached dwelling with new vehicular and pedestrian access from Hyde Park together with the formation of a new vehicular entrance gate.

1. *Having regard to the nature, scale, bulk and design and layout of the proposed development, located within the rear garden of an existing dwelling and in close proximity to surrounding boundaries; the proposed development would be visually incongruous, and overbearing in its site context onto surrounding properties within Castlepark Road and Hyde Park, and would be visually injurious to the Hyde Park adjacent dwelling(s) and streetscape. The proposed development would therefore not accord with Section 12.3.7.6 Backland, and Section 12.8.3.3 Private Open Space of the Dún Laoghaire Rathdown County Development Plan 2022-2028. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity. Furthermore, the proposed development would, if permitted, set an undesirable precedent for similar development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

4.2. Relevant planning history in vicinity

D20A/0524: Killeen, 35C Castlepark Road. Permission was granted (28/01/2021) for demolition of the existing two storey detached dwelling and garage to rear, the subdivision of the site and the construction of 2 no. houses, one house fronting onto Castlepark Road, and one house fronting onto Hyde Park, provision of a new vehicular entrance from Castlepark Road and the widening and enhancement of the existing vehicular entrance from Hyde Park. This development is south of the appeal site on the south side of the pedestrian laneway between Castlepark Road and Hyde Park.

D21A/1039: To the rear of Killeen, 35C Castlepark Road. Permission was granted (24/02/2022) for a two storey dwelling, as the previously granted permission, ref. D20A/0524.

D20A/0249: 20 Hyde Park. Permission was granted by the Board (10/07/2020) for the demolition of side garage and single storey side annex, construction of a two storey detached house, new boundary walls to subdivide the site at the side and new vehicular and pedestrian entrance for 20 Hyde Park. The PA had refused

permission for one reason relating to scale, massing, design, depth, and proximity to site boundaries, and considered that the proposal would adversely impact on the residential amenity of adjacent properties by reason of overbearing appearance and represent overdevelopment of the subject site and would not accord with the provisions of the previous CDP regarding additional accommodation in existing built-up areas. This development is located at the western end of the Hyde Park cul de sac.

5.0 Policy and Context

5.1. National and regional policy

- Project Ireland 2040: National Planning Framework, 2018 (NPF)
- Regional Spatial and Economic Strategy for the Eastern Region, 2019 (RSES)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 (SRDCSG)
- Design Manual for Urban Roads and Streets, 2019 (DMURS)
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes, Sustaining Communities (DEHLG, 2007).

5.2. Development Plan

5.2.1. The Dun Laoghaire-Rathdown Development Plan 2022-2028 (CDP) applies. The site is located in zoning Objective A *‘to provide residential development and improve residential amenity, while protecting the existing residential amenities’*. Residential development is ‘permitted in principle’, subject to compliance with relevant policies, standards and requirements set out in the CDP.

5.2.2. Relevant policies and statements in the CDP may be summarised to include:

Chapter 4 (Neighbourhood - People, Homes, and Place) sets out the policy aimed at creating and maintaining successful neighbourhoods and protecting residential amenities throughout the County.

Policy Objective PHP18 Residential Density: Increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites....

Policy Objective PHP19 Existing Housing Stock – Adaptation: Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF. Densify existing built-up areas in the County through small scale infill development ...

Section 4.3.1 provides a minimum density of 50 units per hectare c.1 kilometre pedestrian catchment / 10 minute walking time of a rail station. As a general rule the minimum default density for new residential developments in the County shall be 35 units per hectare).

Policy Objective PHP20 Protection of Existing Residential Amenity: To ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

Policy Objective PHP35 (Healthy Placemaking): Ensure development proposals are cognisant of the need for consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding, and detailed design.

Policy Objective EI6: ‘Sustainable Drainage Systems’: Ensure that all development proposals incorporate Sustainable Drainage Systems (SuDS).

Policy Objective OSR7: ‘Trees, Woodland and Forestry’: Implement the objectives and policies of the Tree Policy and the forthcoming Tree Strategy for the County...

Policy Objective GIB18: Protection of Natural Heritage and the Environment.

Chapter 12: Development Management provides specific requirements relating to quality design and place making which are elaborated on in the assessment where relevant.

Section 12.3.1.1 Design Criteria.

Section 12.3.7 Additional Accommodation in Existing Built-Up Areas.

Section 12.3.7.5 Corner/Side Garden Sites - 13 no. criteria to which regard will be had in assessing applications that would subdivide the curtilage of an existing house including size, design, layout, relationship with existing dwelling and immediately adjacent properties.

Section 12.3.7.6 Backland Development- 8 no. standards to be applied.

Section 12.3.7.7 Infill Development (including impacts on early/mid-20th century estates).

Section 12.3.7.9 Mews Lane Development.

Section 12.4.8 Vehicular Entrances and Hardstanding Areas.

Section 12.4.5.2 Application of Standards.

Section 12.4.5.6 Residential Parking.

Section 12.4.8 Vehicular Entrances and Hardstanding Areas.

Section 12.8.11 Existing Trees and Hedgerows .

Section 12.8.3.3 Private Open Space

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development, its location in a serviced built-up urban area, the absence of any connectivity to any sensitive location and the likely emissions therefrom, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001, as amended. I conclude that the need for environmental impact assessment can, therefore, be excluded. Please see completed Forms 1 and 2 appended to this report.

6.0 The Appeal

6.1. Grounds of third party appeals

- 6.1.1. **Third Party Appeal:** An appeal was received (28/06/2024) from the following persons:

- Enda and Paula Roche of 29 Hyde Park,
- Paul and Victoria Cassidy of 13 Hyde Park,
- Declan and Rachel Morrissey of 12 Hyde Park,

- Garrett Hughes of Raglan, 13a Hyde Park,
- Stephen Vard and Yvonne Duggan of 16 Hyde Park,
- Ruth and Keelan McGowan of 17 Hyde Park
- Nuala and Peter Cannon of 32 Hyde Park, and
- Mary Roberts of 33 Hyde Park.

6.1.2. The grounds of this appeal may be summarised as follows:

- The revised proposal does not sufficiently overcome the prior reasons for refusal ref. D23A/0390. The previous application was for 322 sqm, now reduced to 288.7 sqm, on a smaller site. Increases in living space reflect it is an over development. There is no change in the height of the building and the sections do not clearly indicate the relative heights relative to No. 19 Hyde Park and other properties that have a lower ground level.
- The building would dominate the pedestrian busy laneway replacing a 2 metre high wall with a 6.5 m high wall severely impacting the amenity and safety of pedestrians and could result in more traffic use.
- No. 33 does not currently have access or rights of way into Hyde Park and the applicant does not have ownership of the land outside the boundary of their property to provide access. Section 12.4.8.6 provides the planning authority will not normally grant permission for development which requires access over public open space or a non-paved route.
- Section 12.4.8 of CDP provides exits shall avoid traffic hazards for pedestrians. The planner's report failed to address this. The impact and hazard of an additional driveway have not been assessed and safety measures should have been provided. The application does not adequately address visibility between vehicles exiting onto Hyde Park and pedestrians, cyclists and vehicles on Hyde Park.
- Section 12.3.7.6 states that piecemeal back land development with multiple vehicular access points will not be encouraged. Permission has been granted for two other properties in close proximity. Section 12.4.8.2 provides that boundaries should harmonise in colour texture and height and this has not

been included in the conditions. The wall should be limited to 1.1 m for the length of the driveway.

- The pre planning application request details are not disclosed.
- The movement of open space (58 sqm) to the northeast of the site contains a section for side access and is otherwise unusable.
- The Planner's report in recommending permission is insufficient and does not address the multiple observations and objections raised by the residents of Hyde Park and Castlepark Road. It is unclear if the planner visited the site.
- The proposal is an over development of this confined back garden site country to section 12.3.7.7 of the CPD with inadequate quality and quantity of private open space proposed.
- 47 itemised objections are listed in a table format (pages 7-11 of appeal) where the appellants contend that many of the issues raised in their observations were not addressed as part of the planner's report. The references in the planning report to mews development is erroneous. Infill development should respect the height and massing of existing residential units per the CDP section 12.3.7.7 and should particularly apply to areas that exemplify Victorian era to mid-20th century suburban Garden City plans settings that do not otherwise benefit from ACA status. Hyde Park is an early mid 20th century suburban estate, and the council was remiss in not applying the criteria and conditions to retain the physical character of the area. Historical images of the estate are provided. Section 12.3.7.5 of the CDP specifies corner side garden sites shall have regard to several parameters which have been ignored in the planning assessment.
- The proposed development is an extreme intensity of development in terms of plot size and location. The neighbouring recent infill developments provide examples of higher density developments which do not have the same negative impact as the proposed development. The proposed development includes 2 double bedrooms with a study that could be repurposed as a bedroom where the occupancy could accommodate 5 people with one car parking space, requiring on street parking and congestion of the cul-de-sac.

- The overall height, mass and scale will be overbearing on neighbouring properties and will negatively impact on the heritage and residential amenity. The development is contrary to policy objective PHP19. The drawings do not represent a true representation of the relative size and impact on surrounding buildings in Hyde Park and elsewhere. The site sits on an elevated ground level where the sloping gradient on Castlepark Road slopes to the sea.
- The proposal dominates and is not subsidiary to the parent house at No. 33 Castlepark Road and will sit above its eaves and be visually overbearing. The provided conditions do not go far enough to address the objections. The proposed dwelling will be highly incongruous in the streetscape and the contemporary nature is incongruent with the surrounding area. The proposed development is considered an aggressive and excess of infill development.
- Ecological impact and loss of flora and fauna will occur as the development necessitates the loss of mature trees and hedging country to policy objectives in the CDP.
- Inappropriate precedent for such over scaled development.

6.1.3. Third Party Appeal: Bryan Maguire of 31 Castlepark Road (1/07/2024)

- This appeal reiterates points in the first party appeal above in relation to the previous refusal and being contrary to the CDP. The appellant resides at No. 31 Castlepark Road abutting the application site.
- The overall height mass and scale will be overbearing on neighbouring properties in particular No. 31 Castlepark Road which is compounded by the different ground levels. The assessment by the case planner was inadequate. This appellant is not opposed to development on the site, but it should be undertaken in an appropriately.
- The context of the site is set out. The distance from the Conservatory to the rear of the proposed development has been increased from 12.085 m in the refused application to 12.981 m and the distance to the rear boundary of the application site adjacent to No. 31 has been increased from 15.832 to 17.963 m.

- Notably, most of the reduction in the overall floor area is below ground level from that previously refused when the previous application was proposed on the boundary with the appellant. The current proposal is set back by 1.8 metres but remains 4.27 metres wide. The ground floor is T shaped with a first floor of 89 sqm increased from the previously refused application of 86 square metres.
- It is incumbent on the board to consider this as a three bedroom dwelling. The proposed front garden private open space offers the lowest possible amenity to any future occupants. Open space should be excluded from the calculation as it forms narrow and circular space to the front of the house and is not usable, good quality per section 12.8.3.3. The case planner incorrectly calculated the area as 60 sqm whereas the applicant states it is 58.5 sqm. SPPR 2 of the compact settlement guidelines states 40 sqm should form the minimum private open space for a 3 bedroom house. The Board should conclude that a smaller scale development that achieved two or three bedrooms while materially increasing the quality and quantity of private open space and improving residential communities should be provided.
- The condition of the planning authority to require a small decrease in the overall height remains negative on the residential and visual amenity of the appellant. The potential for the proposal to be considered as overbearing is reflected in the reduction of heights. The development is contrary to section 12.3.7.6 and is contrary to the need for such a backland development to be single storey to avoid overlooking of the existing house and the appellant's property by having a blank two storey on the boundary wall because it is of an excessive scale form and mass relative to the established pattern of development. An extract from the application shows the front contextual elevation with No. 31 has been provided where the contextual level of No. 31 is indicated in a red dotted line.
- The Board is requested to consider whether the applicant has sufficient legal status to seek permission to gain access from Hyde Park. The design statement on page 7 incorrectly states that vehicular access to the site is available from the public roadway at Hyde Park. There is a narrow strip of land that appears not to be in the ownership of the applicant that they seek to

gain access across. The proposed car parking space will lead to reversing movements immediately adjacent to the pedestrian link from where car users will not be able to see any potential users of the laneway resulting in a traffic hazard.

- The submitted drawings failed to illustrate with clarity that the ground is lower towards Hyde Park and the eaves of No. 33.
- Inadequate separation distances are provided where it is notable that only 2 m separates the proposed 2 storey dwelling from the conservatory of the main house.

6.1.4. Third Party Appeal: John Carroll, solicitor, executor of the estate of Michael Bennett, late of 19 Hyde Park (25/06/2024)

- This appeal reiterates the points in the appeals summarised above.
- The 1st floor windows at 19 Hyde Park are positioned c. 10 metres from the front garden ensuring this amenity space will be overlooked. Consequently, the garden space of the proposed dwelling cannot be considered private open space owing to the overlooking from No.s 19 and 20 Hyde Park and the public road.
- The proposal will have an overbearing impact on the adjoining dwellings including the main house No.33 to the west with a 2 storey element proposed directly on the western boundary wall. The current application has large openings at ground floor and 1st floor which would overlook the property at 19 Hyde Park, similar to the previous application. A window at first floor overlooks the side windows of 19 Hyde Park with direct views into the kitchen, downstairs hall and landing. It will overlook the front garden of No.19 Hyde Park contrary to the relevant zoning objective. The proposal is contrary to policy objective PHP 20 where the residential amenity of existing homes is to be protected where they are adjacent to proposed higher density and greater height infill developments.
- The impact of the proposed development is so severe that it will negatively impact the property prices in the area, particularly for No.19 Hyde Park and No.31 Castlepark Road.

- The surrounding permitted recent developments at 20 Hyde Park and 35C Castlepark Road both provided private open space to the rear of the site. Both of those developments were 50% smaller than the proposed dwelling.

6.2. Applicant Response

- A response to the three third party appeals states the previous planning history has little or no relevance particularly as it did not become before the Board.
- The planning officer assessed the application with reference to the CPD and the recently published guidance in the SRDCSG 2024. That guidance departs from the CDP and supersedes particular sections with reference to separation distances between dwellings and the provision of private open space. The planning officer noted the proposal is 33.3 sqm smaller than they previously refused permission and is less than one kilometre from the dart where a residential density of 50-250 units per ha is generally required. Provision of open space meets the requirements of the guidelines and CDP. It is considered the development accords with all CDP policies. Conditions are subject to a first party appeal.
- It is rejected that the scale of the proposed dwelling constitutes overdevelopment as the floor area above basement level is 206.7 sqm. Basements are not typically provided in Ireland owing to costs. The applicants wish to move from their current family size house which will make that house available to a family. The site area at 0.0282 ha is substantial by suburban standards. The site has a relatively low plot ratio of 0.73. The development adheres to the general pattern of heights on Hyde Park. The proposal is similar in height and scale to the recently completed house at 20 Hyde Park. The appeal against conditions includes an illustration of the almost imperceptible effect of the appealed conditions.
- The proposed open space is in accordance with CDP and guidelines and also a relaxation in part or in whole on a case by case basis is allowable.
- The back gardens of the houses on this part of Castlepark Road are particularly generous and the proposed dwelling will have a minimal impact on

the amenity of No. 31. The difference in ground levels are not of a sufficient order to make any material difference. The proposed dwelling is well set back from the mutual boundary which is a single storey kitchen and 1.8 metres from the boundary. The main two storey part of the proposed house will be 5 m from the boundary of the appellant at No. 31 Castle Park Rd. The proposed proximity to No. 19 Hyde Park at right angles provides some views over the front garden which is a usual arrangement and accords with the guidelines. A criterion of good urban design is that buildings should generally present with well-defined edges to streets and public spaces. In relation to the main house No. 33 Castlepark Road, the proposed dwelling does not have any windows facing No. 33 and is 17.69 m from the house. Even if there were windows in the rear elevation, this would entirely accord with the new guidelines.

- Having regard to the location of the development at the head of a cul-de-sac and the layout of the turning area, there is no likelihood of serious traffic hazard.
- The row of Leyland Cypress have little ecological value. No evidence has been submitted to substantiate a claim of property devaluation.
- The applicants have sufficient interest to carry out the development.
- The numerous planning policies which are referred to are inconsistent. In relation to backland development, the site at the rear of No. 33 directly abuts an existing residential road rather than a narrow laneway and is designed to address the established residential road. In relation to infill development, the design is unmistakably contemporary and accords with the CDP. The proposed development accords with policy objective PH19.
- There is no conflict with the section dealing with green infrastructure. The existing evergreen, non-native hybrid trees are of limited ecological value. Existing planting along the boundary with No. 31 will be protected. There are no Natura 2000 sites within the immediate vicinity. All drainage will be drained via the public sewage system and there is no pathway in ecological terms between the distant natural sites on the appeal site.
- Section 12.8.3.3 allows for provision of private open space to the front and side of the site subject to design, residential amenity, etc., and accords with

the new guidelines. The planning authority did not see fit to attach a condition offer financial contribution in lieu of the provision of public open space.

6.3. Planning Authority Response to third party and first party appeals

- In response to correspondence dated 17/6/2024 and 4/07/2024, the Board is referred to the previous planner's report, and it is considered that the grounds of appeals do not raise any new matters which in the opinion of the planning authority would justify a change of attitude to the proposed development.

6.4. Grounds of First Party Appeal

- Condition No. 2 a) requires a floor to ceiling height at ground floor level of a maximum of 2.5 m and upper floor level maximum of 2.4 m compared to an application for 2.755 m at ground floor and 2.5 m at the upper floor. An analysis has been carried out on the recently permitted house at 35C Castlepark Road and No. 20 Hyde Park. Both of those houses have a 2.7m floor to ceiling at ground level. The proposed dwelling has a larger open plan space at ground floor where 2.75 metres to ceiling height is appropriate creating a comfortable environment allowing for better air circulation and natural light distribution, crucial for energy efficiency and sustainability.
- Condition 2 b) requires the modification of bedroom No. 1 window to a smaller size replicating the window on bedroom No. 2. The larger windows are integral to the goal of maximising natural light and ventilation reducing reliance on artificial lighting stroke mechanical ventilation. The larger size window is appropriate in relation to the larger size of the bedroom and the rationale is the same as what has been applied to the adjacent house at Killeen. A constant repetition of similar size windows that do not reflect the internal layout will result in poor environmental internal layout and a bland appearance. Maximising daylight and solar gain are important in the provision of quality and sustainable houses.

- Condition 2 c) is intended to effectively conceal the solar panels installed on the roof. The raised parapet ensures the solar panels are not visible, the higher parapet provides additional protection to the solar panels and reduces noise generated by wind around the solar panels. A parapet height of 200 mm is quite low and will result in the PV panels being external exposed with a disturbed and unattractive roofline.
- Condition 5 c) requires that the entrance gate be inward opening. It is considered that the location at the end of a cul de sac facilitates an electronic sliding gate which will not impact on passing vehicles bicycles or pedestrians. In terms of length of time to allow a vehicle to enter the parking area, a sliding gate will most likely be quicker than a person stopping a vehicle exiting and opening gates manually, re-entering and then proceeding forward. A sliding gate should not create a traffic hazard.

6.5. **Observations**

6.5.1. None.

6.6. **Further Responses**

- 6.6.1. A response to the first party appeal was received from Bryan Maguire (30/07/2024).
- Key points of the appeals are reiterated. The potential for the proposal to be overbearing is reflected in the reduction of the heights proposed in condition No.2. The submitted appeal against condition No.2 does not clearly illustrate the true contextual level of the impact on No. 31.
 - The recently developed modern houses have a narrow form that are subsidiary and do not dominate the parent property unlike the proposed development which is 17.9 metres in width. The appeal to reintroduce the higher floor to ceiling heights is unwarranted. The degree of natural light being achieved into the internal spaces will not be materially impacted by the reduction in overall height. The reason for the windows being confined to the southern elevation is due to the overdevelopment proposed.

- The CGI's submitted appears to indicate the panels are not visible once condition No. 2 is implemented.
- No sight line drawings were submitted with the application or appeal in relation to condition No.5 which is reflective of the overdevelopment proposed.
- The proposed open space contains a narrow corridor area which will be overshadowed and offers the lowest possible degree of amenity and is inadequate having regard to SPPR2 and the CDP.
- Permission should be refused.

6.6.2. A response to the first party appeal was received from Enda Roche (31/07/2024).

- Key points of the appeal are reiterated. The height of the development will be higher than the pole situated in the laneway and a photograph of the relative scale is submitted.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the information received in relation to the third party appeals and first party appeal, having inspected the site, and having regard to relevant planning policies, I am satisfied that the main issues can be dealt with under the following broad headings which by their nature are interrelated:

- Principle of Development
- Planning history
- Design, visual impact and impact on character of the area (including appeal against condition 2)
- Impact on residential amenity of property in the vicinity
- Density
- Infill development
- Number of bedrooms
- Private open space
- Safety on the laneway
- Consent to carry out works
- Vehicular Access (including appeal against condition 5)
- Trees and Biodiversity
- Devalue property in the vicinity

7.2. Principle of Development

- 7.2.1. The appeal site is located in residential zoning objective 'A', to provide residential development and improve residential amenity, while protecting existing residential amenities and where a house is acceptable in principle in the CDP. The policy of the CDP and the higher level policies is to promote and encourage infill residential development in serviced urban areas and to increase residential density. In this regard, the principle of an additional house in this location is acceptable subject to the application of the appropriate standards and protection of residential amenity of property in the vicinity.

7.3. Planning history

- 7.3.1. The appeals submit that the current application does not differ significantly from the proposal that was refused planning permission, PA Ref. D23A/0390. That decision was not appealed. This assessment considers the application de novo and while the planning history stands, this assessment is confined to the application before the Board. The reason for refusal by the PA is noted, which in the main, considered the design and location of that development to be visually incongruous and overbearing in its site context onto surrounding properties. It was considered by the PA that the development would be visually injurious to the Hyde Park adjacent dwelling(s) and streetscape. These issues are raised in the appeals and are addressed in the subsequent sections of this assessment.

7.4. Design, visual impact and impact on character of the area (including appeal against condition 2).

- 7.4.1. This issue has been raised in the third party appeals and is relevant to the first party appeal against condition No.2. It is submitted in the appeals that the development is visually incongruous by reason of its size, height and design, fronting a mid-twentieth century housing estate where the PA were remiss in not applying the CDP criteria to retain the physical character of the area despite it not having an Architectural Conservation Area (ACA) status. It is contended the proposal will be overbearing on neighbouring properties.
- 7.4.2. Section 12.3.7.7 of the CDP provides that infill development will be encouraged, shall respect the height and massing of existing residential units, retain the physical character of the area and this shall particularly apply to those areas that exemplify

early-mid 20th century suburban 'Garden City' planned settings and estates. I note that Hyde Park is similar to many estates built around this time, which can be suitable for appropriate infill development.

7.4.3. As Hyde Park is an L shaped cul de sac, the proposed development visually impacts the character of the western section, particularly at the head of the cul de sac which also contains a pedestrian laneway. The laneway is south of the centre of the cul de sac with a recently developed modern house on the smaller site, south of the lane. As this area provides a pedestrian link between Castlepark Road and Hyde Park, the area is seen by both the residents in this section of Hyde Park and pedestrians from the wider area. The south side of the laneway has been transformed by the recent development of a house fronting the cul de sac and I believe the development of a two storey house on the north of the laneway, fronting Hyde Park, provides a sense of enclosure and visually completes the head of the cul de sac. The new modern house located to the side of No.20 Hyde Park is largely indiscernible owing to its building line and size.

7.4.4. The proposed house is two storeys directly onto part of the lane. As the proposed house is stepped back on the southern side, the two storey element is c.6 m in length onto the lane, less than the new house No.35C on the south of the lane. The proposed height is 6.5 m onto the lane at the two storey section. The height of the proposed house broadly aligns with No.35C (c. 365 mm lower) but is located on a larger and wider site that is visually more dominant and takes up a larger section of the end of the cul de sac. The front elevation is set back on the southern side, adjacent to lane and the central section broadly aligns with the front building line of the new house at 35C (which is at an angle). The proposed front elevation then steps back again where the site bounds the front garden of No.19 Hyde Park and is single storey. The house does read as a much wider house than the adjacent new house, No.35C, but the stepped nature and varying elevational materials significantly reduces the visual impact. I consider the width of the site and the location as capable of absorbing a design as proposed.

7.4.5. The two new developments can be distinguished from the appeal site in that both sites are narrow fronted and longer in depth. Having regard to the proposed stepped elevational design fronting Hyde Park, the width of the site, the context with the adjacent lane, the adjacent new development and the Hyde Park estate houses

which are set back from the public road, I do not consider that the proposed overall height, mass and scale will be overbearing to the existing character of the area. I will address the specific impact on adjacent properties in the next section which also overlaps with the first party appeal against conditions which altered the design and height and specific applicable CDP standards.

- 7.4.6. Having regard to the above, I do not consider that the proposed dwelling will be incongruous within the streetscape and the contemporary design is not incongruent but rather a reflection of the era in which the development is proposed. I consider that this section of the housing estate can absorb the modern development which is consistent with the recent developments in the vicinity.
- 7.4.7. It is appropriate to assess the first party appeal against condition 2 a) *The floor to ceiling heights at ground floor level are to have a maximum height of 2.5m and at upper floor level, a maximum height of 2.4m* and c) *The parapet surrounding the flat roof is to be constructed to a maximum height of approximately 200mm*. Section 2 b) is dealt with in the next section.
- 7.4.8. The view of the PA is that the proposed 6.5m high blank façade onto the laneway may result in overbearance contributing to a sense of enclosure on the laneway. The PA also are concerned the east and northern sides may be overbearing and proposed the reduced floor to ceiling heights from 2.755m to 2.5m (255mm) at ground floor and from 2.5m to 2.4m (100mm) at upper floor. The first party response refers to the large size of the open ground floor and the proposed height at 2.75 m allows for better air circulation and natural light distribution.
- 7.4.9. I note the front elevation of the living area (southeast) is proposed between c.2.3 to 2.5m from a 1.5m wall. The proposed floor to ceiling height allows the windows in the living area rise c. 1 m above the wall. The development is constrained by its proposed size against the southeastern boundary wall and the fact that only this elevation has windows. The deep living/kitchen areas will benefit from roof lights over the single storey elements, but the main light source is the southeastern windows which are restricted by a 1.5 m high wall, c 2.5m distance away.
- 7.4.10. To reduce the floor to ceiling height per the condition would impinge on the window height, as drawing No.022008 illustrates the top of the window at 2.5 m above the FFL and in my opinion demonstrates that the proposal is close to an

overdevelopment of this section of the site. The first floor is also proposed to be reduced by 100mm in condition 2 a). On balance, I do not consider that the overall reduction of 355mm in the floor to ceiling heights as visually significant from the surrounding area, but it would have a negative impact on the ground floor development which has maximised the internal lighting with the reliance on the high level windows.

- 7.4.11. The PA imposed a condition, subject to a first party appeal that the parapet is to be a maximum height of approximately 200mm. The submitted planning application illustrated the solar panels as c.200mm on the roof and while the submitted Engineering report included details and a drawing within the report, no scaled section was provided at that time. The applicant is proposing a 141 sqm green roof, which in the first party appeal is illustrated as 212mm high with a 300mm solar panel over. In this regard, a 500mm parapet would largely screen the solar panels, and a reduction of 300mm in the parapet would make them visible from the surrounding area. The PA are proposing a total reduction of c. 655mm. I consider the two floors, and parapet should be retained for the reasons outlined above and the reduction of the first floor by 100mm would be insignificant in the context of what is permitted to be recommended. The house reads as larger than the new house adjacent at 35C but is on a wider plot and where the scale and mass are significantly broken up with the stepped proposal and differing elevational materials. The proposed height is c 365mm higher than the permitted house at No.35C. Accordingly, I consider that the subsections of Condition 2, (a) and (c) should not be included in any conditions.

7.5. Impact on residential amenity of property in the vicinity.

- 7.5.1. I consider that the proposed development requires assessment in relation potential impact on the residential amenity to No. 33 Castlepark Road, No. 31 Castlepark Road and No. 19 Hyde Park. The views of the parties have been outlined above. Objective PHP20 in the CDP is an objective to ensure the residential amenity of existing homes where they are adjacent to proposed higher density and greater height infill.
- 7.5.2. It is contended in the appeals that the proposed development dominates and is not subsidiary to the parent house at No. 33 Castlepark Road and will sit above its eaves and be visually overbearing. The garden of No.33 is marginally lower at the rear than the front. No. 33 has been extended and retains a side passage along the northern

boundary with No.31. A Victorian style conservatory is located off the rear two storey elevation section of No. 33 which results in the proposed depth of the garden from the conservatory to the rear building line of the proposed development of 12.98m. The main rear elevation of No.33 is proposed to be separated c.17.6m from the proposed development. The ridge of No.33 is c. 2m higher than the proposed parapet of the new flat roofed dwelling which is marginally above the eaves of No.33. In this regard, while the proposed two storey development is built on the boundary, the elevation is broken up by setting back the northern section of the two storey element c 1.4m from the boundary, reducing the mass somewhat from the rear garden of No.33. Given the distance of the proposed development from the existing house, the large remaining garden, and the overall size of the reduced site at No.33 of 1,456sqm, I consider that the proposal is acceptable to the residential amenity of the main house and that no overlooking, or significant overshadowing of the remaining large amenity space would occur. I also do not consider that the proposal dominates No.33 and the proposal accords with section 12.3.7 subsections 5 and 6 of the CDP where relevant.

7.5.3. No. 31 Castlepark Road is a two storey house, on the same front building line as No.33 fronting Castlepark Road with a long rear garden that also bounds the side of No.19 Hyde Park. Mature planting exists along the boundaries of No. 31. The proposed single storey element of the new dwelling is c 1.8 m from the mutual side boundary with the rear garden area of No.31 and the proposed 2 storey element is c 5.1 m from the boundary. The appeal (Bryan Maguire) contends that the set back from the boundary of 1.8 m is 4.27 m wide, the development is visually injurious to No.31 and fails to illustrate with clarity that the ground is lower towards Hyde Park.

7.5.4. While an infill house to the rear of the adjacent site will undoubtedly be visible from the rear of No. 31, I consider the distance from the rear of that house, the very large private open space to the rear and orientation of the proposed dwelling will not unduly injure the residential amenity of No.31. The 4.27 m width of the proposed dwelling set back 1.8m from the northern boundary with No.31 is a single storey element of the proposed dwelling, reducing the impact. Furthermore, the boundaries demonstrate mature planting at No.31 which will reduce the visual impact when the trees are in leaf. I note the site slopes towards Hyde Park, and this is annotated on the site plan with spot levels illustrating the site gently falls from northwest to

southeast. Having inspected the site, I do not consider that the level differences across the site as a significant.

- 7.5.5. The appeal site bounds the front open space and parking area of No. 19 Hyde Park and the grounds of appeal in relation to that property are outlined above. The front building line of No.19 corresponds with the side northeastern boundary of the appeal site. No. 19 has a long back garden and benefits from a wider plot width at the front and centre of the site than the neighbouring properties to the west. As No.19 is similar to the site opposite, No. 20, where an infill house has been built on the side plot, there is potential for additional development on the site. There are small paned windows on the gable of No.19 facing the boundary of the appeal site. Accordingly, and in the interest of promoting higher sustainable density in urban areas, I consider that the proposed development should be built with cognisance to both the existing residential amenity and should not prejudice potential future residential development.
- 7.5.6. The main impact arises from the location of the proposal, adjacent to the front garden and drive of No.19 and from the proposed windows on the southeastern elevation. This issue also relates to the first party appeal against condition No.2 “*b) The upper floor Bedroom 1 window shall be reduced in size and replicate the size and form of the window for bedroom 2*”. As the ground floor windows are behind a 1.5 m wall, I do not consider any overlooking can occur from the ground floor over the front/side of No.19.
- 7.5.7. At first floor, the two storey element consists of a large picture window in bedroom 1 (c 3.1m x 1.9m) overlooking the front garden of No.19. The 2 storey element of the proposed front elevation is c 13m from the front corner of No.19. There will be overlooking from any window at first floor on this section of the elevation across the front garden of No.19 and only obliquely to the side elevation small windows and front elevation. I consider in an urban situation that mutual overlooking of the front gardens is acceptable and note this front garden is not the private amenity space. I consider the possible oblique overlooking of windows acceptable owing to the angle and distance. The proposed window is very large and as there are only windows on the southeastern elevation, it appears to have been designed to provide light into the deep space of the master bedroom. The grounds of the first party appeal (page 5) also include details of a balustrade and sliding window. The first party has submitted a model of the window replicating the other bedroom window per the condition and I

consider visually this would jar with the overall design. I do accept that the size of the window would create a sense of perceived overlooking to the neighbouring property No.19 and am mindful that the side of No.19 could potentially be subject to an application for an infill development in the future. I also consider the balustrade and sliding glazed screen could give rise to a perception of increased overlooking.

7.5.8. The window to bedroom No. 1 aligns on the north side of the elevation with the window at ground floor which will be visible over the wall. I consider that the window should be reduced in height to match the height of window to Bedroom No.2 and the width should remain as proposed. This would provide a more modest window while reflecting the overall design integrity.

7.5.9. In relation to potential overlooking from the upper floor of No.19 into the private open space of the proposed development, the angles are oblique from bedroom windows into an open space behind a 1.5m wall and is considered acceptable.

7.5.10. The proposed development accords with the separation distances set out in SPPR 1 of SRDCS and I do not consider that the proposed development, subject to the condition above would cause any significant loss of amenity to No.19 Hyde Park.

7.6. Density

7.6.1. The appeal site is c 850m walk to Glenageary Dart station. In the SRDCSG, City - Urban Neighbourhoods, include highly accessible urban locations with good access and it is a policy and objective that residential densities in the range 50 dph to 250 dph (net) shall generally be applied. The CDP provides in section 4.3.1 that a minimum density of 50 units per ha., consistent with the RSES and the minimum default density for new residential developments shall be 35 units per ha. Policy PHP18 has an objective to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites. Policy PHP19 has an objective inter alia densify existing built-up areas through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

7.6.2. The PA consider a proposed density is low but suitable for the location. I note the PA density calculation appears incorrect, and the density proposed is c 35.4 units per ha on the application site which is within the CDP minimum default density for new residential developments of 35 units per ha. I consider that the site could potentially

accommodate a higher density but acknowledge the site constraints. One house is proposed which in design terms is satisfactory and utilises a space fronting a cul de sac. I consider the proposed additional housing unit in this area also accords with the objectives in the NPF and CDP to increase density in serviced areas and reject the appeal grounds that the density is too high.

7.7. Infill development

- 7.7.1. Section 12.3.7.6 of the CDP provides that backland residential development usually involves the establishment of a new dwelling and a building line to the rear of an existing line of houses. The CDP provides that “residential development within the boundary of larger detached houses does not constitute backland development” and will not be assessed as such. Where the PA accepts the principle of residential development to the rear of smaller, more confined sites, certain stated standards apply. I consider that this is an infill development that can be distinguished from the CDP backland development to the rear of smaller, more confined sites owing to the size of the land/main house and also note the separation distances in the CDP have been superseded by the recent SRDCSG. I also do not consider that a house on the appeal site should be single storey, given there is no overlooking and as the other infill houses are two storeys.
- 7.7.2. Reference is made in the appeals to the CDP corner/side gardens section 12.3.7.5. and the parameters in the CDP. I consider the proposed development in this rear garden site as compliant with the parameters which are focused on size, design, layout, relationship with existing dwelling and immediately adjacent properties. I do not consider the criteria for 12.3.7.9 ‘Mews Lane Development’ as applicable on this site.

7.8. Number of bedrooms

- 7.8.1. The appeals contend that the proposal contains 2 bedrooms as well as a bedroom sized room (study) that is above the minimum floor area for a single bedroom and this is a three bedroom dwelling. I concur with the appellants as the layout of the first floor provides for three rooms that are appropriately sized bedrooms. The proposed study may continue as that use, but the size of the house and layout of the rooms means that the study may be used as a bedroom in the future and the house should

be assessed as such. My conclusion leads onto the next section of the assessment of the proposed private open space.

7.9. Private open space

- 7.9.1. Section 5.3.2 of the SRDCSG provides that well-designed private open space forms an integral part of houses. SPPR 2 - Minimum Private Open Space Standards for Houses states that proposals for new houses meet the following minimum private open space standards: 2 bed house 30 sqm and 3 bed house 40 sqm.
- 7.9.2. The proposed open space is stated on the plans as 58.5 sqm and it is L shaped located in front of the southeastern elevation, accessed from the kitchen. The area outside of the living room is c. 2.5m wide bounded by a 1.5 m wall and is c 8m long (c. 20sqm). The area outside the kitchen and extending north is c 38sqm. I consider the open space is correctly annotated on the plans, and this excludes the incidental area to the side of the house (north). Section 2.8.3. of the CDP permits on infill sites provision of open space to the front and side of the site to serve the subject to design, residential amenity, etc
- 7.9.3. The SRDCSG require a minimum of 40 sqm for a three bedroom house and therefore, the proposal exceeds the required quantum and supersedes section 12.8.3.3 of the CDP. The guidance also provides that private open space must form part of the curtilage of the house and be designed to provide a high standard of external amenity space where open spaces may take the form of traditional gardens or patio areas at ground level, and a principal area of open space should be directly accessible from a living space. I note the shape and location of the open space is accessed from the kitchen, which is off the living area and a fence and gate is proposed on the southern section beside the parking area. The orientation of the open space is not optimum as the car parking area is located in the southwest of the site in order to access the cul de sac. The open space c 2.5 m wide outside the living area is limited owing to width and boundary. As the site is constrained, I consider the square space c 38 sqm outside the kitchen area will avail of the early sun and the overall open space is acceptable in an urban situation, having regard to the criteria in the Compact Growth Guidelines.

7.10. Safety on the laneway

- 7.10.1. The issue of vehicular access is dealt with below.

7.10.2. The two storey element of the proposed development onto the laneway extends for c 6m which is less than the newly developed house 35C which bounds the laneway. No.35 A which fronts Castlepark Road also has a 2 storey element built onto the laneway. No evidence has been provided as to why the proposed dwelling would impact on the ongoing amenity or safety of the laneway if appropriate measures are taken during construction stage. I consider that another house fronting Hyde Park directly adjacent to the lane provides for additional passive surveillance for pedestrians using the laneway.

7.10.3. The PA consider that the height of the development onto the laneway may be overbearing and have conditioned the dwelling be reduced marginally in height as discussed above. As above, I consider that the reduction in height as proposed by the PA to be negligible in terms of visual impact and consider the same applies to the impact on the laneway.

7.11. Consent to carry out works

7.11.1. I note the comments of the appellants in respect of consent and access onto the cul de sac from the site. The red line in the planning application includes the triangular sliver of land between the rear boundary wall at No.33 and the low boundary wall at the head of the cul de sac. 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'. The Transportation Report recommended permission be granted subject to conditions and I consider that section 34(1) of the Act is appropriate to note as this part of the assessment.

7.12. Vehicular Access(including appeal against condition 5)

7.12.1. There are two elements to the assessment of the vehicular access, the third party appeals and the first party appeal against condition No. 5 regarding the sliding gates, *(a) The proposed front boundary treatment height shall not be increased for a minimum extent of 1 metre either side of the proposed vehicular entrance, and the proposed front entrance return walls shall be no more than 1.1m in height in order to maintain adequate visibility between vehicles exiting the development and pedestrians, cyclists and vehicles on Castlepark Road. (b) The proposed gate shall be no more than 1.1m in height and not be automatically operated in accordance*

with Section 12.4.8.1 Vehicular Entrances and Hardstanding Areas General Specifications of the current DLRCC County Development Plan 2022-2028. (c) The proposed gates shall be inward opening and not automatic gates in accordance with Section 12.4.8.1 of the current DLRCC County Development Plan 2022-2028. REASON: In the interest of orderly development.

- 7.12.2. The third party appeals object to an additional vehicular access and consider same a traffic hazard to users of the laneway. In this regard, the proposed 3.5 m access is c 1.1 m from the laneway. The traffic report from the PA does not object subject to conditions. I concur with the PA in relation to condition 5 (a) that the proposed front boundary treatment height shall not be increased for a minimum extent of 1 metre either side of the proposed vehicular entrance, and the proposed front entrance return walls shall be no more than 1.1m in height to maintain adequate visibility. This matter should be agreed in writing with the PA and it should be clear that this applies to the section of the parking area which will be similar to No.35C. I consider that the boundary wall adjacent to the laneway that is the parking area should be c 1.1 m in height for approximately 3.8 meters (from the pillar outside the site red line) which would correspond with the boundary onto the laneway of the new development, No.35C Castlepark Road. To compliment the boundary with No.35C will visually unify this section of the cul de sac, will improve the public realm, reflect the open character of the estate and provide passive surveillance in the vicinity of a pedestrian laneway. The bin storage location should be agreed with the PA having regard to the condition about the boundary.
- 7.12.3. I do not consider that one additional off street parking space will lead to the lane not being used and consider this is speculation. On inspection, the new house to the south was being worked on with evidence of trade vehicles at the site and in the vicinity, while the laneway retained its pedestrian use. In relation to children playing, this is a cul de sac which is generally safe for children to play with a limited number of vehicles at this end of the street.
- 7.12.4. In relation to the first party appeal against (b) The proposed gate shall be no more than 1.1m in height and not be automatically operated,.. this overlaps with (c) The proposed gates shall be inward opening and not automatic gates.. As the application is assessed de novo, I intend to consider these conditions together.

7.12.5. I concur with condition (b), automated gates are restricted in the CDP for various reasons and this includes noise adjacent to the front garden on No.19. In relation to (c) while I agree the gates should not be automated, I consider the restricted site can facilitate a sliding gate. I noted a van in the parking space to the new house No.35C resulted in overhanging of the footpath. I consider optimising the parking space away from the front door and to allow for an EV point, that a sliding gate is acceptable as long as it is not automated, and details can be agreed with the PA.

7.12.6. I consider that one off street parking space is adequate in this location and that a development with no parking would also accord with the SRDCSG.

7.13. Trees and Biodiversity

7.14. The views of the parties have been outlined. The trees to be removed are non-native, Leyland cypress which are very large and are pushing through the boundary wall and growing among the telecoms line. I note there is no tree protection objective on this site and the relevant CDP policies. In relation to infill housing, I consider the applicable policies on increasing density on serviced sites as requiring a balance in some cases that results in the loss of mature trees. I consider that No.33 and the surrounding house demonstrate ample planting and the removal of the non-native and over large trees for an urban area to be acceptable.

7.15. Devalue property in the vicinity

7.15.1. I do not consider that there is sufficient evidence in the appeals that the proposed development will devalue property in the area.

7.16. Appropriate Assessment Screening

7.17. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, 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 EIA at an initial stage.

8.0 Recommendation

8.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dun Laoghaire-Rathdown County Council County Development Plan 2022–2028, to the zoning of the site for residential purposes, to the design, layout and density of the proposed development, and to the pattern of development in the vicinity, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the character of the area or the residential or visual amenities of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>Prior to the commencement of the development the Applicant shall submit to the Planning Authority for their written approval, revised plans illustrating the following modifications to the proposal: The upper floor Bedroom 1 window shall be reduced in height and replicate the height of the window for Bedroom 2. The width of window shall be retained as proposed.</p> <p>Reason: To safeguard surrounding residential amenities.</p> |
| 3. | <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>Reason: In the interest of visual amenity.</p> |

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| 4. | <p>Details of the vehicular access shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(a) The proposed front boundary treatment height shall not be increased for a minimum extent of 1 metre either side of the proposed vehicular entrance, and the proposed front entrance return wall adjacent to the pedestrian laneway shall be no more than 1.1 meter in height for a length of approximately 3.8 meters to correspond with the boundary treatment onto the laneway of the new development, No.35C Castlepark Road. The bin storage location and details shall be agreed with the PA having regard to this condition.</p> <p>(b) The proposed gate shall be no more than 1.1m in height and may be sliding or inward opening and shall NOT be automatic gates.</p> <p>(c) The development shall comply with the transportation requirements of the Planning Authority with regard to vehicle entrance widths, and dishing of kerbs/footpaths.</p> <p>Reason: In the interest of orderly development, visual amenity, pedestrian, cyclist and traffic safety.</p> |
| 5. | <p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interest of visual and residential amenity.</p> |
| 6. | <p>The developer shall enter into water and wastewater connection agreement with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p> |
| 7. | <p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p> |

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| 8. | <p>The construction of the proposed development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended excavation and construction practices for the proposed development, including noise management measures, traffic management, off-site disposal of construction/demolition waste and details of all works proposed to be carried in proximity to the adjacent pedestrian laneway.</p> <p>Reason: In the interest of public safety and residential amenity.</p> |
| 9. | <p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 10. | <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 Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the</p> |

| | |
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| | Development Contribution Scheme made under section 48 of the Act be applied to the permission. |
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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.

Rosemarie McLaughlin
Planning Inspector

7th October 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

| | | | |
|---|---|---|---|
| An Bord Pleanála Case Reference | ABP 320015-24 | | |
| Proposed Development Summary | Construction of a two storey over basement dwelling and associated site works | | |
| Development Address | 33 Castlepark Road, Sandycove, Co. Dublin, A96 KC92 | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | x |
| | | No | No further action required |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | | Class..... | EIA Mandatory EIAR required |
| No | x | | Proceed to Q.3 |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | |
| | | Threshold | Comment (if relevant) |
| No | | N/A | No EIAR or Preliminary Examination required |
| Yes | | Class 10(b)(i) of Part 2: threshold 500 dwelling units (iv) urban development | Proceed to Q.4 |
| 4. Has Schedule 7A information been submitted? | | | |
| No | X | Preliminary Examination required | |
| Yes | | Screening Determination required | |

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

| | | |
|---|---|------------------------------|
| An Bord Pleanála Case Reference | ABP 320015-24 | |
| Proposed Development Summary | Construction of a two storey over basement dwelling and all associated site works | |
| Development Address | 33 Castlepark Road, Sandycove, Co. Dublin, A96 KC92 | |
| <p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p> | | |
| | Examination | Yes/No/ Uncertain |
| <p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p> | <p>The subject development comprises one dwelling in a large rear garden in a mature suburban area, characterised by residential development. Permission has been granted for two houses on infill sites in the immediate vicinity. Accordingly, the proposed development would not be exceptional in the context of the existing environment.</p> <p>During the excavation and construction phases the proposed development would generate waste. However, given the moderate size of the proposed development, I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phase due to the nature of the proposed use.</p> | <p>No</p> <p>No</p> |
| <p>Size of the Development Is the size of the proposed development exceptional in</p> | The proposed house including the basement is 288 sqm. The houses on Castlepark Road are mostly very large extended houses on large plots and the | No |

| | | |
|---|--|----|
| the context of the existing environment? | houses on Hyde Park are semi detached houses on long plots. The proposal is not considered exceptional in the context of neighbouring houses. | No |
| Are there significant cumulative considerations having regard to other existing and / or permitted projects? | Owing to the serviced urban nature of the site and the infill character of the scheme, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area. | No |
| Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species? | The application site is not located in or immediately adjacent to any European site. The closest Natura 2000 sites are the Rockabilly to Dalkey Island SAC (Site Code 003000), c.1.7 km southwest of the site the South Dublin Bay SAC (Site Code 000210) c 3.2 km north east and. There are no waterbodies or ecological sensitive sites in the vicinity of the site. | No |
| Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure? | The site is located within a serviced urban area and the site would be connected to public surface and foul sewers. I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area. | No |
| Conclusion | | |
| There is no real likelihood of significant effects on the environment. | | |
| EIA is not required. | | |
| . | | |

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)