



An
Coimisiún
Pleanála

Inspector's Report

ABP-321091-24

Development

Construction of 3 dwellings and all other ancillary works.

Location

32 Castilla Park & 81 Blackheath Park, Clontarf, Dublin 3

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

2928/21

Applicant(s)

Denali Holdings Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party V. Grant

Appellant(s)

1. Aoibhinn Hamill
2. Gerard Guidan
3. Maureen and Jonathan Barry
4. Shay and Eimear Lydon
5. Thomas and Phylomena Byrne
6. Thomas Vickers and Celine Rogers

Observer(s)

1. Aodhán Ó Ríordain TD

2. Brian Martin
3. Cian O'Callahan TD
4. Cllr. Catherine Stocker
5. Cllr. Deirdre Heney
6. Cllr. Naoise Ó Muirí
7. Clontarf Residents Association
8. Colm Rath
9. David Cotter
10. David and Frances Gorman
11. David Killen
12. Des and Ann Crotty
13. Diarmuid and Stephanie Murphy
14. Glenn Worley
15. Gonzalo Martin
16. James Brian and Brenda Sullivan
17. Karl Ackland
18. Margarett Condell
19. Michael Bredican and Others
20. Orla Vickers
21. Sean Haughey TD
22. Sinead Flanagan and Paul
Mulligan

Date of Site Inspection 12th March and 3rd November 2025.

Inspector Susan McHugh

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1.0 Introduction

- 1.1. In the case of Judicial Review 2024 No. 1035 JR (between Maureen Barry, Celine Rogers, James Brian Sullivan (third parties) and An Bord Pleanála (respondent) and Dublin City County Council (notice party)), the High Court ordered that the decision of An Bord Pleanála (ABP-312988-22) made on 24th July 2023 to grant permission of development be quashed.
- 1.2. The appeal has been remitted back to the Board to the point in time of prior to the completion of the Inspectors Report. The appeal has been reactivated under the current appeal reference, ABP-321091-24.
- 1.3. ABP-321091-24 relates to 6 no. third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for three two storey detached dwellings within the existing rear gardens of No. 32 Castilla Park and No. 81 Blackheath Park, Clontarf. The grounds of appeal argue the proposed development will significantly impact on ecology namely Badgers, surrounding residential amenities and result in a traffic hazard.
- 1.4. I note that the Board, having regard to the High Court Order, the quashing of the previous decision, and the passage of time, invited all parties and observers to make any further general submissions/observations that they may have on the planning application. Three of the 6 no. appellants made further responses to the grounds of appeal, and the applicant submitted a number of supplementary reports in their response to issues raised in the appeals and observations.
- 1.5. A Technical Note prepared by the Coimisiúns in house Ecologist accompanies this report and is included in Appendix 4 of this report.

2.0 Site Location and Description

- 2.1. The subject site is located in the centre of Clontarf, Dublin 3, c.6 kilometres' north-east of Dublin City Centre.
- 2.2. Castilla Park and Blackheath Park are located in the established suburban residential area of Clontarf characterised by two storey dwellings comprising a mix of detached, semi-detached and terraced houses.

- 2.3. The appeal site comprises two no. existing dwellings (32 Castilla Park and 81 Blackheath Park) and their associated private rear gardens which back onto one another at a 90-degree angle. It is proposed to cordon off the rear and side garden of No. 32 Castilla Park, in addition to the rear garden of No. 81 Blackheath Park. to accommodate three no. dwellings.
- 2.4. No. 81 Blackheath Park is a four-bedroom semi-detached house and benefits from a long rear garden to the south backing onto the side garden of No.32 Castilla Park.
- 2.5. The appeal site is defined to the north by the rear garden boundaries of properties along Blackheath Park and to the west by the rear gardens of properties on Blackheath Park and rear garden boundary with No. 38 Seafield Road West.
- 2.6. House No. s 79 and 77 Blackheath Park (home to two of the third-party appellants) are located to the west of No. 81 Blackheath Park. House No. 38 Seafield Road West (home to one of the third-party appellants), are located to the west of No. 32 Castilla Park and benefits from a large rear garden where the badger sett is located.
- 2.7. No. 32 Castilla Park is a three-bedroom house end of terrace house and forms within Castilla Park. No. 32 benefits from a large rear and side garden to the west and north with pedestrian access from the laneway to the rear.
- 2.8. The appeal site is bounded to the south by the shared rear garden boundary with the adjoining mid terrace house no. 31 Castilla Park (home to one of the third-party appellants). To the east the front garden of No.32 is bounded by a low wall and footpath. Part of the front garden boundary wall has been removed, and front garden has been filled with hardcore materials.
- 2.9. Castilla Park Road is a relatively narrow L-shaped cul-de-sac accommodating approximately 32 no. two storey terraced dwellings. Two additional detached infill houses are also accessed from Castilla Park Road. Castilla Park links Seafield Road West to the south with Vernon Avenue to the east.
- 2.10. A c.1.2-metre-wide footpath runs along the northern side of Castilla Park, with a wider footpath running along the southern side, and links to Seafield Road West via a pedestrian link from the turning circle at the southern end of Castilla Park.

- 2.11. Blackheath Park is a long straight road linking Castle Avenue and Vernon Avenue and accommodates semi-detached two-storey dwellings dating from the mid-20th century.
- 2.12. Boundaries comprise a mix of solid timber fencing, mature hedges and trees to the north, and south with some naturalised hedgerows and woodland at the rear (west).
- 2.13. Clontarf GAA Club and Belgrove Girls and Boys schools are located c. 200m southwest of the appeal site. A neighbourhood centre is located c.230m to the southeast and St. Annes Park is located c. 600m from the appeal site with Clontarf promenade c. 850m away.
- 2.14. A number of high frequency bus stops providing services between Dublin city centre and Clontarf are located within 300m of the site on Vernon Avenue and Blackheath Park. The Closes DART station (Killester) is located approx. 1.5km away.
- 2.15. The subject site has a stated area of c.0.2 hectares.

3.0 Proposed Development

- 3.1.1. The planning application was lodged with the planning authority on 10/06/2021, and seeks permission for the following:
 - a) Construction of 3 no. dwellings comprising:
 - (a) 1 no. three storey (comprising 2 storey plus dormer) 5-bed semi-detached house (c. 237 sqm) and
 - (b) 1 no. three storey (comprising 2 storey plus dormer) 4-bed semi-detached house (c. 198 sqm) to the rear of the existing house at 32 Castilla Park; and
 - (c) 1 no. 2 storey 2-bed detached dwelling (c. 130sqm) to the rear of the existing house at 81 Blackheath Park;
 - b) Removal of existing single storey side extension, provision of new side and rear 2-storey extension, partial conversion of attic to provide a study and external alterations at 32 Castilla Park. No. 32, which will remain a 3-bed semi-detached house, will extend to c. 135sqm (an increase in floorspace of c. 47 sqm);
 - c) New vehicular and pedestrian access from Castilla Park;
 - d) The development will also include for associated site development works, including internal access roads, drainage and hard & soft landscaping (including

boundary treatments), off-street car parking, bin storage, and all other ancillary works.

3.1.2. The application was accompanied by the following:

- Planning Statement
- Schedule of Accommodation and Housing Quality Assessment
- Architectural Design Statement
- Daylight and Sunlight Assessment Report/Results
- Landscape Design Statement
- Traffic Report
- Environmental Services Report (including Preliminary flood risk assessment)
- Appropriate Assessment Screening Report
- Letter of consent from the owner.

3.1.3. Following the PA request for Further Information (FI) on the 04/08/2021, an application for Extension of Time to FI request was submitted by the applicant. This application was granted by the PA for a period of 6 months on 06/12/2021.

3.1.4. Further plans and details were submitted to the PA on 25/01/2022.

3.1.5. As amended the proposal provides for the revised layout and design of proposed house of No. 81A and consequent increase in rear private amenity space and omission of first floor terrace. The rear garden length was extended, resulting in a rear garden area of 59sqm, increased from 41sqm.

3.1.6. Other amendments include changes to the radius of the bell mouth entrance and relocation of existing foul sewer within the site. The following reports were submitted by way of further information

- Amended Architectural Drawings and Schedule
- Schedule of Accommodation and Housing Quality Assessment
- Indicative Future Development
- Daylight and Sunlight Assessment Report RFI Sun lighting to proposed rear garden of house 81A

- Ecological Impact Assessment (EclA) prepared by Malone O'Regan Environmental Appendix 1 of the EclA report includes an Assessment of Badger Activity prepared by Dr. Chris Smal, Ecological Solutions.
- Arboricultural Report and supporting drawings by Charles McCorkell Arboricultural Consultancy
- Landscape Design Statement and Updated Landscaping documents
- Updated Engineering Drawings
- Appropriate Assessment Screening

3.2. Planning Authority Decision

3.2.1. On the 21st February 2022, Dublin City Council issued a notification of their intention to **grant** permission subject to 15 no. conditions. These are generally standard conditions save for bespoke conditions 3, 6, 7, 8, 13 and 14, and will be considered in my assessment under section 7 of this report

Condition No. 3 relates to a development contribution in lieu of the public open space requirement in respect of public open space.

Condition No. 6 'The proposed additional house 32A Castilla Park shall be modified as follows: a) En-suite bathroom window at second floor level/ attic level shall be fitted with permanently obscure glazing b) The flat roof of the proposed development shall not be used for recreational purposes, and the roof shall be accessible for maintenance purposes only. **Reason** In the interest of the protection of residential amenity.'

Condition No. 7 'The proposed extension to the existing no. 32 Castilla Park shall be modified as follows: a) The window to the proposed en-suite bathroom at first floor level shall be fitted with permanently obscure glazing. b) All elevations; fascia/soffits; rainwater goods, window frames glazing bars shall be finished in a dark colour so as to blend with the existing roof finish. **Reason:** In the interest of visual and residential amenity.'

Condition No. 8 'The proposed development shall adhere to the following:

- a) A maximum of 6 no. parking spaces only are permitted to serve the dwellings on site.
- b) The footpath along the access road shall be provided with a full raised kerb along its length, dished as appropriate across the entrance to No. 82A Blackheath Park.
- c) Any proposed road, junctions, car parking areas, footpaths and hard landscaping areas to be taken in charge including raised tables, shared surface areas and public lighting, shall be agreed in writing with the Traffic Advisory Group (TAG) and Roads Maintenance Division of Dublin City Council prior to commencement of development. All materials proposed shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.
- d) Driveway and pedestrian entrances shall not have outward opening gates.
- e) Footpath and kerbs to be dished and new entrance provided to the requirements of the Area Engineer, Roads Maintenance Division
- f) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- g) The developer shall be obliged to comply with the requirements set out in the Code of Practice. **Reason:** In the interest of public safety and the proper planning and sustainable development of the area.

Condition No.13: 'The recommendations outlined in the Arboricultural Report and the mitigation measures outlined in the Ecological Impact Assessment submitted as further information shall be fully implemented. **Reason:** In the interest of tree protection and to protect biodiversity in the urban environment.'

Condition No.14: 'Prior to commencement of development the developer shall enter into an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act 2000 (as amended), which shall allow for provision of shared access over the proposed access way. This shared access shall make provision for facilitating the possible future development of lands to the west, north and east.'

Reason: In the interest of co-ordinated development.'

3.3. Planning Authority Reports

3.3.1. Planning Reports

The 1st Planners report dated 9th August 2021 notes the following;

- *Daylight/Sunlight* - Rear Garden of no. 81A Blackheath Park would not achieve the required BRE standard.
- *Precedent* - Do not accept development to the rear of no. 91 Blackheath Park approved under plan ref no 4472/19 ABP-307180-20, sets a precedent as no. 91 Blackheath Park can be accessed via the existing Castilla Park.
- *Private Open Space* – Each of the houses meet the minimum required private open space standard.
- *Separation Distances* - Acceptable and will not lead to excessive overlooking.
- *Blackheath Park* – Additional house at no. 81A Blackheath Park would have an insufficient separation distance with the existing house on site no. 81 Blackheath Park. Insufficient depth of the rear garden combined with its north facing aspect would result in a poor quality private open space, contrary to Section 16.10.2 of the Dublin City Development Plan 2016-2022.
- Notes Indicative Future Layout drawings indicate a further seven dwellings in the rear gardens of the houses on either side of the no 81A Blackheath Park.
- *32A and B Castilla Park* - Two houses to rear of no. 32 Castilla Park effectively the same height as the two-storey houses in the vicinity, which should not generate excessive overlooking of neighbouring properties.
- *Housing Standards* - Proposed houses would meet the standards as required under the Quality Housing for Sustainable Communities – Best Practice Guidelines.
- *Extensions to 32 Castilla Park* - Proposed rear extension acceptable, additional en-suite bathroom shall be fitted with obscure glazing.
- *Dormer Extension to 32 Castilla Park* - Acceptable.
- *Access to Daylight and Sunlight* - No significant impacts on third parties.

- *Conclusion* – Notes reference to potential badgers and bats on site by objectors, and observation from DAU citing evidence of a badger sett on an adjacent property, and evidence that the badgers forage on the application site.
- Notes report from DCC Parks, Biodiversity & Landscape Services and request that measures for the protection of the most important trees on site and in the immediate vicinity which would be affected by the proposed development be submitted.

3.3.2. Recommends **further information** in relation to the submission of

1. ‘An ecological survey and assessment report carried out for the application site and the adjacent area (including lands within c.150m of the application site boundary). The assessment shall be carried out by a qualified ecologist, with experience in badger ecology. The assessment will include the proposed development and the potential impacts of the indicative wider masterplan development. The appointed ecologist will liaise with the NPWS on the location and access to a badger sett located to the rear garden of 38 Seafield Road West. The potential impact should be assessed, and sett tunnels/chambers should be mapped using non-invasive geophysical methods such as GPR with the consent of landowners and within the application site. Prior to commencement, the methodology of this survey and assessment to be approved by the NPWS and the Planning Authority’
2. A tree survey, tree impact assessment and tree protection plan by a qualified arboriculturist.
3. Proposed house at no. 81A Blackheath Park, concerns in relation to
 - (a) *the inadequate separation distance to the existing house;*
 - (b) *the depth, north facing aspect and usability of the proposed rear garden area; and*
 - (c) *amenity issues due to potential excessive overlooking from the proposed terrace to the front at first floor level.*’

Applicant requested ‘to address these concerns which may include an alternative design locating the proposed house closer to or on the boundary

with the proposed access route (possibly with a mews style internal garage). This would allow for a greater separation to the rear and improved private open space for the existing and proposed houses.' and

'to clarify in greater detail how the updated proposal could be successfully replicated on adjacent property and how access to the proposed vehicular route would be secured for adjacent properties. A contiguous front elevation for the updated indicative masterplan development should be provided.'

3.3.3. The 2nd Planners report dated 23rd February 2022 following further information notes internal reports as summarised below and the response to the further information request with respect to ecology, including a report on badger activity, impact on trees and revised layout/alternative design to proposed house no. 81A Blackheath Park.

- Recommends a **grant** of permission.

3.3.4. Other Technical Reports

- **Transportation Planning Division:** 1st Report dated 23/07/2021 recommends no objection subject to conditions. 2nd Report dated 17/02/2022 recommends no objection with a requirement to provide 6 no. car parking spaces only.
- **Drainage Division:** 1st Report dated 25/06/2021 recommends no objection subject to conditions. 2nd Report notes no change.
- **Parks, Biodiversity and Landscape Services:** 1st Report recommends further information (Not on file). 2nd Report dated 14/02/2022 recommends that loss of trees at the proposed entrance is not acceptable.
- **Waste Management:** No report received.

3.4. Prescribed Bodies

Development Applications Unit (DAU): Report dated 04/08/2021 recommends further information in respect of an Ecological Assessment of the development site.

- The report outlines correspondence by email on 27th July 2021 between DCC Parks Department and the NPWS local Regional Management in relation to the proposed development impacting on a badger sett.

- It is noted that a NPWS Conservation Ranger visited the area on the 29th of July 2021, and ‘though unable to enter the development site he was shown a badger sett under a shipping container in the garden of the neighbouring 38 Seafield Road West by its owner. This sett is about 30m from the development site.’
- The owner of 38 Seafield Road West also showed the NPWS Conservation Ranger recent CCTV footage of two adult badgers at the sett.
- The ranger noted that ‘badgers appeared to be accessing 32 Castilla Park through a gap in its boundary wall and saw evidence in the form of ‘snuffle holes’ that they had been foraging in the latter property.’
- The ranger ‘observed that vegetation had recently been cleared from the development site.’
- The report notes that while an Appropriate Assessment Screening Report was submitted, ‘no ecological report was submitted concerning the development site, and that the author of the AA Screening Report does not seem to have visited the site.’
- The report of the DAU sought an Ecological Assessment of the development site, ‘in order to clarify whether any sett occurs on this site and how the development proposed might impact on the badgers inhabiting the sett in the neighbouring property.’
- **Uisce Éireann:** No report received.

3.5. Third Party Observations

3.5.1. Third-party observations were lodged by the following Elected Representatives.

- Cllr. Catherine Stocker
- Cllr. Damian O’Farrell
- Cllr. Deirdre Heney
- Cllr. Jane Horgan-Jones
- Cllr. Naoise Ó’Muirí

- Seán Haughey TD

3.5.2. Third-party observations were lodged on behalf of a group of residents or by planning consultants on behalf of the following neighbouring properties.

- Aoibhinn Hamill
- Clontarf Residents Association
- Glenn Worley and Ciara Dowling
- Jenny Ring and Ken Ring
- Joe Byrne
- Maura Hand
- Maureen and Jonathan Barry
- Martin Ramsbottom
- Phil Hayes
- Shay and Eimear Lydon
- Sinead Flanagan
- Stephanie Kearns and Diarmuid Murphy
- Thomas and Phylomena Byrne

3.5.3. Individual observations were lodged by the following;

- Alan Crowley
- Astrid Mueller
- Barbra Dalton
- Barry O Byrne
- Brian Martin
- Catherine Cagney
- Cathy Ginty
- Ciaran O'Conluain
- David and Jan Killen

- David Gorman
- Desmond Crotty
- Diarmuid Murphy
- Diarmuid O Murchu
- Emer Spring
- Gerard Guidon
- Glenn Worley
- James Brian and Brenda Sullivan
- Jennifer Ring
- John O'Donovan
- Kieran O'Dwyer
- Mairead Ni Chonluain
- Margaret Condell
- Martin Gonzola
- Mary Gladys Whelan
- Michael Bredican
- Moira Hand
- Paul Mulligan
- Paula Grace
- Phil Hayes
- Ray Tobin
- Richard and Judith Pounder and Gilroy
- Sheila Murray
- Simon and Elizabeth Tierney
- Thomas Vickers and Celine Rogers

3.5.4. Further third-party observations were lodged on foot of the further information response from the following;

- Dr. Mark Austin

3.5.5. Objections to the proposal received by the planning authority are on file for the Coimisiún's information. The issues are comparable to those set out in the grounds of appeal and observations received by the Coimisiún summarised in section 6 below.

3.6. Oral Hearing Request

3.6.1. A request for an oral hearing was submitted by Maureen and Jonathan Barry as part of the grounds of appeal. It was considered that sufficient information was on file to allow for a full and proper assessment without recourse to an oral hearing, the request for an oral hearing was refused.

4.0 Planning History

32 Castilla Park

PA Reg.Ref. 4817/23 ABP-320153-24: Permission **granted** 20/11/2024 for demolition of existing storage shed and associated courtyard walls, part single storey and part two storey flat roof extension to the rear and side with 1 no. associated rooflight, new attic conversion with a metal clad box dormer to the rear pitched roof to provide an attic study, new ground floor bay window to the front elevation with associated canopy to the front and side elevation and all associated site and boundary works to Denali Holdings Ltd. This permission has not been implemented on site.

Condition No. 3 of the permission states 'All mitigation and monitoring measures outlined in the Ecological Impact Assessment Report, Arboricultural Report and further information response received by the planning authority from Gannon Associates on the 10th June 2024 shall be implemented in full by the developer.

Reason: In the interest of biodiversity and ecology protection.'

81 Blackheath Park

PA Ref. WEB1094/21: Permission **granted** 12/05/2021 for

- A) The demolition of: (i) the existing single storey side garage, ii) the single storey rear extension and iii) demolition of the eastern chimney, the partial removal of the rear roof, and part of the existing rear first floor bedroom;
- B) The construction of a part single, part two-storey extension to the existing two-storey house consisting of: i) a two-storey extension to the East and North side of the house, ii) a single storey flat roof rear extension with associated 1 no. roof light to the South, iii) conversion of the attic into a habitable space with associated dormer window and one roof light to the South;
- C) the widening of the existing entrance gateway from Blackheath Park;
- D) modification to existing window openings and insulating/rendering external walls;
- E.) all associated site development works including hard and soft landscaping, boundary treatments, drainage, and attenuation, to Fred Wilson. This permission has been implemented on site.

PA Reg. Ref. 0220/21: Social Housing Exemption Cert (SHEC) **granted** 28/06/2021 for development as described in subject application.

91 Blackheath Park

PA Reg. Ref. 4472/19 ABP-307180: Permission **granted** 18/11/2020 for construction of a two-storey dwelling in the rear garden of existing dwelling with access onto Castilla Park. This permission has been implemented on site. The proposed dwelling has a stated floor area of 130sqm and a ridge height 7.3m.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The site is located in an area with the landuse zoning Sustainable Residential Neighbourhoods – Zone Z1, with the accompanying objective 'To protect, provide and improve residential amenities'
- 5.1.2. **Chapter 2** of the development plan relates to the Core Strategy.
- 5.1.3. **Section 2.2** stated 'Based on the population targets and calculated housing need set out within national and regional planning policy, guidelines and prescribed methodology, the development plan must accommodate between 20,120 – 31,520

additional persons up to an overall population target of between 625,750 and 640,000 by 2028. The housing demand calculated sets a requirement for the development plan to provide for approximately 40,000 housing units between 2022 and 2028.'

- 5.1.4. **Chapter 5** of the development plan relates to quality housing and sustainable neighbourhoods.
- 5.1.5. **Policy QHSN2** seeks 'to have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2020), 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009), Housing Options for our Aging Population 2019, the Design Manual for Quality Housing (2022), the Design Manual for Urban Roads and Streets (DMURS) (2019), the Urban Development and Building Height Guidelines for Planning Authorities (2018) and the Affordable Housing Act 2021 including Part 2 Section 6 with regard to community land trusts and/or other appropriate mechanisms in the provision of dwellings.'
- 5.1.6. **Policy QHSN6** seeks 'to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.'
- 5.1.7. **Policy QHSN9** seeks 'to promote residential development addressing any shortfall in housing provision through active land management, which will include land acquisition to assist regeneration and meet public housing needs, and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.'
- 5.1.8. **Policy QHSN10** seeks 'to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.'

5.1.9. **Policy QHSNO4** seeks 'to support the ongoing densification of the suburbs and prepare a design guide regarding innovative housing models, designs and solutions for infill development, backland development, mews development, re-use of existing housing stock and best practice for attic conversions.'

5.1.10. **Policy QHSN11** seeks 'to promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible.'

5.1.11. **Policy QHSN22** seeks 'to ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Lifetime Homes Guidance contained in Section 5.2 of the Department of Environment, Heritage and Local Government's 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) and the Universal Design Guidelines for Homes in Ireland 2015.'

5.1.12. **Policy QHSN37** seeks 'to ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.'

Chapter 10 Green Infrastructure and Recreation

5.1.13. **Section 10.5.2 Biodiversity**

5.1.14. **GI 13** Areas of Ecological Importance for Protected Species – 'To ensure the protection, conservation and enhancement of all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives, including those identified as supporting the favourable conservation condition of any European sites, in accordance with development standards set out in this plan.'

GI14 Ecological / Wildlife Corridors – 'To maintain and strengthen the integrity of the city's ecological corridors and stepping stones which enable species to move through the city, by increasing their connectivity [to be shown in the proposed Green

Infrastructure Strategy] under Article 10 of the EU Habitats Directive. Development proposals should not compromise their ecological functions and should realise opportunities to contribute to enhancing the nature conservation value of them by landscaping that provides complementary habitats. An Ecological Impact Assessment will be required for any proposed development likely to have a significant impact on habitats and species of interest on or adjacent an ecological corridor.'

Chapter 15 of the development plan sets out further details in relation to site development standards.

5.1.15. **Section 15.2.3** relates to Planning Application Documentation - Planning Thresholds which are set out in Table 15-1.

5.1.16. **Section 15.5.2** relates to infill development. It states 'infill development refers to lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form. Infill sites are an integral part of the city's development due to the historic layout of streets and buildings.'

5.1.17. 'Infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.'

5.1.18. As such Dublin City Council will require infill development:

- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.

- In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.
- Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.

5.1.19. **Section 15.13.3** relates to Infill/Side Garden Housing Developments.

5.1.20. The planning authority will favourably consider the development of infill housing on appropriate sites, having regard to development plan policy on infill sites and to facilitate the most sustainable use of land and existing urban infrastructure. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.

5.1.21. **Section 15.13.4** relates to backland housing.

5.1.22. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.

5.1.23. Backland housing can comprise of larger scale redevelopment with an overall site access; mews dwellings with access from a rear laneway or detached habitable dwellings to the rear of existing housing with an independent vehicular access.

5.1.24. Developments with street presence are generally governed by clear set out rules established by the urban order of an existing streetscape. Backland development, however, requires more innovation and reinterpretation to enable comprehensive development of these spaces.

5.1.25. Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are paramount to the success and acceptability of new development in backland conditions.

5.1.26. Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the

amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development, this should be discussed at pre-planning stage. Piecemeal backland development with multiple vehicular access points will not be encouraged. See Appendix 5 for further details on vehicular access.

5.1.27. Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling, and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

5.1.28. All applications for infill developments will be assessed on a case-by-case basis. In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

5.1.29. **Section 15.11** relates to House Developments

5.1.30. In terms of private open space, the development plan requires a minimum standard of 10 square metres of private open space per bedspace will normally be applied. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the City.

5.1.31. **Section 15.8.6** Public Open Space

5.1.32. Table 15-4 sets out public open space requirements for residential development, which for residential developments in Z1 a minimum requirement of 10% is required.

5.1.33. **Section 15.8.7** Financial Contribution in Lieu of Open Space

5.1.34. In relation to the provision of public open space ‘in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity.’

5.1.35. The details on the value of the contribution in lieu and other exemptions are set out in the Dublin City Section 48 Development Contribution Scheme and any future amendments thereof.

5.1.36. Dublin City Council Biodiversity Action Plan 2021-2025 lays out DCC’s strategy for the conservation of the city’s biodiversity.

5.2. National Policy

5.2.1. Delivering Homes, Building Communities: An Action Plan on Housing Supply and Targeting Homelessness, 2025-2030 (November 2025), is the government’s plan to deliver 300,000 new homes by the end of 2030. It builds on the foundations of ‘*Housing for All*’, with 137,000 homes built since the beginning of 2021, and informed by the work of the Housing Commission, the new plan will empower the State, partners and the private sector to further play a critical part in delivery.

5.2.2. ‘Housing for All - a New Housing Plan for Ireland (September 2021)’ is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price

- Built to a high standard in the right place
- Offering a high quality of life.

5.2.3. The Revised National Planning Framework (April 2025) recognises the need to plan for a population of between 6.1 to 6.3 million people by 2040, and plan for approximately 50,000 units per annum over that period, to meet additional population and employment growth over and above the original 2018 NPF projections. This reflects the latest research and modelling by the Economic and Social Research Institute (ESRI), which forecasts substantial population growth over the next decade. The Revised NPF, with the subsequent provision of updated planned housing requirements at a local authority level, aims to ensure that housing supply meets both new demand and addresses existing need, creating a sustainable future for housing in Ireland.

In order to ensure that the revised population projections and related housing requirements can be delivered on, service provision will also require co-ordination and prioritisation to ensure that the necessary infrastructure is in place, both to support and enable housing development to take place, and to ensure that housing delivery is aligned with the provision of services and facilities for communities. This includes the provision of education, childcare, healthcare and recreational facilities to support the expansion of existing settlements and the creation of new sustainable communities.

In addition to accounting for the ESRI's baseline projection of 6.1m people by 2040, the NPF also includes provision for strategic planning for up to 6.3 million people by 2040 (the ESRI high migration scenario), which is required to be aligned with strategic planning for Transport Orientated Development (TOD) in and around Ireland's five cities to support the delivery of new sustainable communities at brownfield and greenfield locations along existing or planned high capacity public transport corridors.

The implementation of the NPF will continue to align with the National Development Plan and form as one single vision for Ireland under 'Project Ireland 2040' to be fully supported by the Government's investment strategy for public capital investment and investment by the State sector in general.

5.2.4. Project Ireland 2040 National Planning Framework (NPF) The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

5.2.5. Climate Action Plan 2025 (CAP25) is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021.

The Plan lays out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

Climate Action Plan 2025 builds upon last year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.

5.2.6. Ireland's 4th National Biodiversity Action Plan 2023–2030 - Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The NBAP will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity,
- Objective 2 - Meet Urgent Conservation and Restoration Needs,
- Objective 3 - Secure Nature's Contribution to People,
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.2.7. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

5.2.8. Other relevant national guidelines include:

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

5.3. Water Framework Directive

- 5.3.1. The European Union Water Framework Directive 2000/60/EC (WFD) was adopted in 2000 as a single piece of legislation covering rivers, lakes, groundwater and transitional (estuarine) and coastal waters and includes heavily modified and artificial waterbodies. The overarching aim of the WFD is to prevent further deterioration of and to protect, enhance and restore the status of all bodies of water with the aim of achieving at least 'good' ecological status by 2015 (or where certain derogations have been justified to 2021 or 2027).
- 5.3.2. The site is located within the River Liffey and Dublin Bay (Catchment ID 09) Water Framework Directive catchment area and in the Mayne_SC-10 (Sub-catchment id 09_17).
- 5.3.3. The nearest river waterbody to the site is the Tolka River which is located c. 2.6km west of the site which flows into Dublin Bay.
- 5.3.4. Screening the need for Water Framework Directive Assessment Determination is attached as Appendix 5 of my report.

5.4. Natural Heritage Designations

- 5.4.1. The subject site is located c. 0.7km from the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and North Dublin Bay pNHA.
- 5.4.2. It is c. 1.1km from the North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (Site Code 004006).
- 5.4.3. The proposed development is located within an established residential area and comprises the construction of 3 dwellings and all other ancillary works. There will be a connection to the public sewerage network. There are no watercourses linking the site with any such designated areas.

5.5. **EIA Screening**

- 5.5.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.
- 5.5.2. EIA Pre-Screening is attached as Appendix 1 and EIA Preliminary Examination is attached as Appendix 2 of this report.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. Six no. third party appeals against the decision by the PA to grant permission were lodged by the following parties:
 - Aoibhinn Hamill
 - Gerard Guidan
 - Maureen and Jonathan Barry
 - Shay and Eimear Lydon
 - Thomas and Phylomena Byrne
 - Thomas Vickers and Celine Rogers
- 6.1.2. I have summarised the particular issues raised in the grounds of appeals submitted below.

Maureen and Jonathan Barry

- 6.1.3. The nearest residential property to no. 32 Castilla Park is the adjoining terraced house no. 31 to the south, which is home to Maureen and Jonathan Barry.
- 6.1.4. This grounds of appeal were accompanied by a Badger Report prepared by Dr. Aoibheann Gaughran dated 26th October 2021. It was also accompanied by a USB

stick containing videos of badger activity, and traffic congestion on the bend of Castilla Park outside no. 32. Issues are raised in relation to Badger activity and protection along with the traffic report and access arrangements.

6.1.5. Concerns are also raised in relation to the impact on residential amenity in terms of scale mass and height which would give rise to overlooking and visual intrusion, inadequate separation distances to shared boundary, alternative boundary proposal to no. 31.

Thomas and Phylomena Byrne

6.1.6. A badger sett is located in the rear garden of house no 38 Seafield Road West and is home to Thomas and Phylomena Byrne. The grounds of appeal were accompanied by photos of the active badger sett and of mating pair of badgers. The rear garden of No. 38 bounds the adjoining laneway and rear garden of no. 32 Castilla Park to the west.

6.1.7. This grounds of appeal raises concern in relation to impact on residential amenity and submits would be a material contravention of the residential zoning objective, and contrary to CDP policy for backland development with the removal of mature hedgerow and habitat along the rear of properties to facilitate the service road and thereby constitutes overdevelopment.

6.1.8. Concerns are raised in relation to traffic, compliance with DMURS, adequate Swept Path Analysis and overspill parking. The grounds of appeal note that the proposed new access road extends to the appellants boundary which would serve 7 no houses.

6.1.9. Concerns are raised in relation to biodiversity. The grounds of appeal comments in detail on the Badger Report prepared by Dr. Chris Smal (Ecological Solutions) submitted in response to the RFI, which it is submitted conflicts with the Badger Report prepared by Dr. Aoibheann Gaughran. It is submitted that the two houses and proposed boundary along the western boundary would pose a significant threat to this protected species and result in local extinction of this sett. Concerns are also raised in relation to loss or damage to hedging along the northern boundary of the appeal site which is used as foraging. Concern is raised in relation to loss of street trees and that the proposed development would set an undesirable precedent.

Shay and Eimear Lydon

- 6.1.10. House no. 79 Blackheath Park shares its eastern boundary with no. 81 Blackheath Park, and southern boundary with 32 Castilla Park and is home to Shay and Eimear Lydon.
- 6.1.11. The grounds of appeal submit that the proposed development contravenes CDP policy for mews development and infill development. It is submitted that private open space provided for house 81A to rear of existing house 81, is substandard, and that there is inadequate separation distance from house 81A to adjoining houses no. 79 and 81 Blackheath Park.
- 6.1.12. It is submitted that proposed dwellings 32A and B could be made more acceptable by a reduction in size. Concerns are raised in terms of loss of residential amenity and privacy, overbearing impact and visual impact. Similar to concerns raised in the other grounds of appeal issues are raised in relation to ecological impacts, indicative future development, road safety/traffic issues and precedent.

Thomas Vickers and Celine Rogers

- 6.1.13. House no. 77 Blackheath Park shares its southern boundary with 32 Castilla Park and is home to Thomas Vickers and Celine Rogers. This grounds of appeal comments in detail on the Arboriculture Report submitted and is accompanied by photographs of an existing poplar tree which adjoins the appeal site.
- 6.1.14. It is submitted that the Report underestimates the stem diameter of the Poplar tree by 25% and therefore subsequent calculations for the Root Protection Area (RPA).
- 6.1.15. Specific concerns are raised in the grounds of appeal with respect to the impact of the proposed road and proposed house no. 32B on the root system of their Poplar tree (T9) which extends a minimum of 22m into the proposed site. Concerns are also raised in relation to potential future damage to no. 32B. It is submitted that the tree survey plan identifies the location of the tree incorrectly.
- 6.1.16. Similar to concerns raised in the other grounds of appeal issues are raised in relation to the impact of the development on feeding areas for wildlife and badgers. Specifically, it is submitted that the arboriculture report relating to appellants hedgerows fails to appreciate the ecological importance of this habitat as a transport route for local wildlife.

Aoibhinn Hamill

6.1.17. House no. 19 Castilla Park is located at the turning circle at the end southern end of Castilla Park and is home to Aoibhinn Hamill. The grounds of appeal comments in detail on the Traffic Report submitted with the application. Concerns are raised in relation to the traffic impacts of the indicative future development, impact on residential amenities, car parking and the ecological impact assessment submitted.

Gerard Guidan

6.1.18. Concerns are raised in relation to access to the development along Castilla Park and condition no. 14 of the grant of permission.

Issues Raised

6.1.19. There is a significant overlap of issues in the grounds of appeal. To avoid unnecessary repetition, the common issues raised are summarised briefly as follows;

Impact on Residential Amenity

- Overdevelopment
- Massing scale design and proximity to site boundaries
- Overlooking, loss of privacy
- Overbearing, overshadowing, visual intrusion
- Noise and disturbance
- Depreciation of property values.
- Impact on both existing residences and proposed.
- Inadequate separation distances
- Substandard layout density and design
- Substandard private open space
- Mansard roof and finishes out of character

Traffic Impact/Safety

- Access from Castilla Park, carriageway width and sightlines
- Compliance with DMURS

- Swept path analysis
- Traffic congestion, traffic safety
- Traffic Report assessment and conclusions
- Overspill and illegal car parking
- Loss of Street Trees - Existing Street trees are of high value and part of the local residential amenity.

Planning Policy

- Material contravention - of residential zoning objective of the CDP.
- Proposed development contravenes CDP policy for mews development and infill development.
- Undesirable Precedent
- Precedents used in the subject applications

Indicative Future Development

- No consultation with adjoining landowners
- On land not owned by the applicant and does not have the approval of the landowners.
- Condition No.14 – gives rise to the possibility that the accessway could facilitate further development of lands to the west, north and east.

Ecological Impact Assessment

- Impact on Badgers – building works and excavations would cause serious risk to active badger sett.
- Applicant did not survey any of the properties within 150 metres of the site (including 38 Seafield Road West where the badger sett is located), nor did they do any ground penetration radar (GPR) either on the site of 32 Castilla Park or 81 Blackheath Park or on any of the properties within the requested 150 m radius.
- Access to adjoining properties – Not requested by the applicant despite requirement to carry out survey as part of RFI.

- Submit on the basis of compliance with the Wildlife act 1976 and Berne Convention that the requested survey and assessment be completed in full.
- Badger tunnels – Comments on Badger Report prepared by Dr. Chris Smal (Ecological Solutions) submitted in response to RFI, conflicts with the Badger Report prepared by Dr. Aoibheann Gaughran and other ecologists which confirms that badger tunnels can frequently run up to 150m in length and in historic badger setts even further. Applicants report submitted with the FI response did not evaluate this activity as required, and was accepted by PA.
- Assessment carried out on the impact of the proposal on badgers living nearby and using the site for foraging was misleading and incomplete in terms
- Recent housing developments have already considerably reduced feeding areas for badgers and proposed development will have a grave impact on future survival.
- Incomplete information –Submit that arboriculture report relating to appellants hedgerows fails to appreciate the ecological importance of this habitat as a transport route of local wildlife.

6.2. Applicant Response

- 6.2.1. A response to issues raised in third party appeals was submitted by Virtus Consultants acting on behalf of the applicant Denali Holdings Ltd.
- 6.2.2. The First Party response dated 7th April 2022 was in response to the Third-Party appeal lodged by Gerard Guidon. The response was accompanied by a no. of appendices including the notification of decision by the PA, a copy of the Planners Report and DCC Roads Department report.
- 6.2.3. The second First Party response dated 20th April 2022 was in response to the Third-Party appeals lodged by the remaining 5 no. third party appellants namely, Aoibhinn Hamill, Maureen and Jonathan Barry, Shay and Eimear Lydon, Thomas and Phylomena Byrne, and Thomas Vickers and Celine Rogers.
- 6.2.4. The response was accompanied by a no. of appendices including a copy of the notification of decision by the PA, and a copy of the ABP correspondence notifying the applicant of the appeals.

6.2.5. The following appendices are also included

- Appendix C: Response by TPS Ltd to Appeal by Aoibhinn Hamill. This includes a no. of drawings indicating Fire Tender Swept Path Assessment and Refuse Vehicle Swept Path Assessment and Junction Sightlines.
- Appendix D: DCC email dated 2nd September 2021 confirming EclA Methodology.
- Appendix E: Response by Dr. Chris Smal (dated 19th April 2022) to Badger Survey Report submitted by Maureen and Jonathan Barry
- Appendix F: Response by Charles McCorkell to Appeal by Thomas Vickers and Celine Rogers
- Appendix G: Response by Magahy Broderick Associates to Appeal by Thomas Vickers and Celine Rogers

6.2.6. The First Party has responded to each individual appeal separately. In an attempt to avoid unnecessary repetition, I have summarised the main responses to issues raised as follows;

Material Contravention of residential zoning objectives

- Refute assertion that proposal does not comply with the Z1 Zoning Objective. Land is zoned for residential development and will improve existing house no. 32 Castilla Park.
- Proposed dwellings have been designed to protect the existing amenities and provide high quality homes for the future occupants.

Impacts on Residential Amenity

- No negative impact on privacy of neighbouring dwellings.
- *Height – CDP* policy regarding height does not preclude 3 storey buildings it simply states that they should generally be 2 storeys.
- Increased building heights are supported by the Project Ireland 2040 NPF 2018 particularly NPO 35) and the Guidelines for Planning Authorities on Urban Development and Building Height Guidelines 2018.

- *Overlooking* - Sensitive design to avoid overlooking of neighbouring properties and private gardens includes provision of generous separation distances, strategic location of windows and use of opaque windows on side elevations.
- No. 32A and 32B are each provided with a Juliette balcony which does not have the same effect as with balconies.

Overbearing and Visual Impact

- Accept there will be a visual effect by constructing houses on currently undeveloped land, however the houses have been designed and sited to ensure that the impact would not be unacceptable.
- Submit mansard roof, to the three storey dwellings will read more as two storeys.
- Rear gardens are capable of accommodating suitably scaled dwellings.
- Proposed dwelling to the rear of 81 Blackheath Park is two storeys in height, reading as a single storey from the rear, and is subordinate to the original houses on Blackheath Park.
- Do not consider that the provision of a dwelling to the rear of no. 81 would be overbearing or should be reduced in size.

Overdevelopment

- Proposed density is 20 units per hectare. Plot ratio and site coverage are slightly below what is allowed in the DCDP.
- Proposed design and density are entirely appropriate and ensures the best use of this site in line with local and national policy without resulting in any undue negative impact on the existing residential amenities.
- Dispute there will be a loss of light to the rear gardens of 77, 79 and 83 Blackheath Park.
- A Daylight and Sunlight Assessment was prepared by 3D Design Bureau in support of the original application. This report was updated following design changes being made to the proposed house at 81A Blackheath Park.

- The assessment was undertaken in line with the Requirements of the BRE Guidelines. The Methodology is clearly explained as well as a glossary and definition of effect.
- Sun lighting to existing neighbouring garden was assessed; it was demonstrated that each of the existing gardens meet the requirements of the BRE guidelines. The impact of the proposed development will be imperceptible in all of the neighbouring gardens assessed. There will be no unacceptable or even noticeable loss to neighbouring properties in terms of daylight or sunlight.
- The immediate character is that of a suburban residential area, the proposals are in keeping with this. The Design statement submitted with the application states that the resulting designs reference the suburban setting.
- Note 32A and 32B provide a larger floor area than some of the nearby houses, submit this is an efficient use of the land and provides for a modern home. Submit that roughly half of the original dwellings on Castilla Park have been extended.

Noise and disturbance

- Subject site is a busy suburban location - Not considered that 3 no. dwellings will result in unacceptable or even perceptible increase in noise levels.

Depreciation of property values

- No evidence provided to back up this unfounded claim.

Private Open Space

- All 4 no. proposed dwellings are provided with either the required private open space or open space that is in excess of what is required in the DCDP.
- Private Open Space to 81A Blackheath Park –provided with a 59.4 sqm rear garden which is in excess of the Development Plan requirement of 50 sqm.
- Daylight and Sunlight Assessment Report prepared by 3D Design Bureau submitted at FI stage confirms that the garden will receive an appropriate amount of sunlight, in compliance with BRE Guidelines.

- 32A and 32B Castilla Park are positioned far enough away from the original dwelling at 32 Castilla Park to provide a rear garden to the original house of 75 sqm. The closest distance at first floor level is c. 21m.

Boundary Screening

- *Request for Boundary Screening* – Submit existing dense hedging will be retained along boundary. Submit that a 2m high boundary wall is not warranted and would interfere with existing badger crossing through the hedge between 31 and 32 Castilla Park.
- *Safety* – There will be active surveillance of the new road by the residents of the new dwelling.

Backland development

- Submit appellants have incorrectly interpreted the Backland policy. Refer to relevant section of the CDP which states that applications for backland development will be considered on their merits.
- Appeal site is effectively a left-over and underutilised portion of land which is entirely appropriate for backland/infill development. There is no conflict with the established pattern of development as this site sits separately from the established character of the area.

Design of 81A Blackheath Park

- Dwelling is of an extremely high-quality providing rooms which all meet or exceed the required space standards. Following design changes at RFI stage PA satisfied adequate private open space for 81 and 81A.
- Accept that there will be a visual change resulting from the proposed dwelling, but this is not considered unacceptable given the high-quality design which has sought to minimise the visual impact and overlooking.
- Refer to a similar scheme permitted in 2020 in the rear garden of 91 Blackheath Park (DCC Reg. Ref. 4472/19
- PA conclude that the proposed development would not overlook excessively the rear of Blackheath Park.

Mews development

- Proposed new dwellings to the rear of 32 Castilla Park were considered by the PA to constitute infill housing or backland development rather than mews land development.
- The new dwelling to the rear of 81 Blackheath Park was considered backland development. As it is will be served by a mews style lane, the applicant has sought to ensure it abides by the mews lane development requirements of the DCDP.
- Mews Lane Policy – It is not considered that a mews style lane could be achieved to the rear of Castilla Park and PA did not request details of how development could be achieved to the rear of Castilla Park.
- Response to appellants assessment of the proposals against the Mews Lane Policy There are no proposals for the remaining plots to the rear of Blackheath Park. However, this should not preclude the development of 81A Blackheath Park considering the overall scheme has provided the road and pedestrian infrastructure required to ensure a co-ordinated and unified mews land scheme can come forward in the future.
- 81A Blackheath Park is subordinate to the main dwelling in both height and floor area. 81 Blackheath Park extends to c. 145sqm (with planning permission for an extension of c. 55sqm (DCC Reg. Reg. WEB1094/21) and 81A as proposed extends to c.129sqm.

Road Safety and Traffic Issues

- Dispute assertion that the traffic analysis or data provided does not reflect the current situation on Castilla Park. Submit the Traffic Report submitted with both the original application and the updated report in response to Aoibhinn Hamill's appeal (enclosed as Appendix C) acknowledge the illegal on-street parking and the location in proximity to schools etc.
- No objection to the scheme from the Roads Department subject to conditions being attached to a grant of permission.
- *Trip Generation* - The typical AM peak hour and PM peak hour trip generation derived from the TRICS data is 3 movements at each hour. This is not considered significant.

- Analysis undertaken by TPS Ltd. is an accurate representation of the vehicle movements that will arise from the proposed development. These results demonstrate that there will be a negligible impact on surrounding road network as a result of the proposed scheme.
- *DMURS* - The layout of the proposed access and the internal access road is designed to meet the standards set out within the Design Manual for Urban Roads and Streets 2019 (DMURS).
- *Sightlines* - The extent of visibility sightlines within the proposed site access off Castilla Park fully complies with the geometric and visibility standards required within DMURS.
- *Traffic Congestion* - Note USB stick containing videos purporting to be traffic congestion on Castilla Park at school times submitted with the appeal.
- Submit these are short term surges in traffic which are unavoidable at locations proximate to schools. Development of family homes within a very short walking distance of such schools should be seen as a sustainable benefit.
- Swept path drawings confirm that the site can be assessed and egressed by fire tenders and refuse vehicles in a forward gear.
- Castilla Park can accommodate the proposed access and additional traffic movements that would be generated by the proposed development.

Parking Provision

- The Board may consider it appropriate to remove condition 8(a) which limits the permitted number of car parking space to 6 no. in total and instead to allow 7 no. spaces originally applied for by the applicant.
- *Illegal Parking* - Cannot be attributed to the application site where parking provision is fully contained-on site and complies with CDP Parking Standards.'
- *Construction Traffic* –A Construction Management Plan will be prepared once a contractor has been appointed.
- 32 Castilla Park does not benefit from vehicular access or off-street parking.

Traffic Impacts

- Layout of the proposed access and internal access road is designed to meet the standards set out within DMURS.
- Concerns raised are noted and are addressed in the application and the Traffic Report prepared by TPS Ltd. in response to Aoibhinn Hamills Appeal which is provided at Appendix C.

Indicative Future Development

- Indicative future dwellings do not form part of this application, and drawings were simply provided as informative to the PA to confirm that the land to the rear of Blackheath Park is capable of achieving a co-ordinated mews lane development.
- Any future application for additional dwellings should be assessed on their own individual merit.

Condition 14 and Potential of Future Development on Adjacent Sites

- Proposed road remains entirely within the applicant's site and are willing to engage with the adjacent landowners in relation to access should access be required in the future.
- Applicant has been advised that the requirement for the developer to enter into a Section 47 agreement is unconstitutional and not legally enforceable, nor is it required. Request the Board remove the condition.

Sustainable Development

- Proposed development will make better use of an underutilised site, deliver much needed additional housing and is designed in line with the policies contained within the adopted CDP and other relevant standards including DMURS.

Ecological Impact Assessment – Impact on Badgers

- Notes Badger Survey Report submitted as part of Maureen and Jonathan Barry's appeal – Refer to response to the survey by Dr. Chris Smal of Ecological Solutions (enclosed in Appendix E).

- Submit that 'Construction of dwellings in the garden of no. 32 Castilla Park will have no direct impact on the badger sett or its tunnel system, as it is located at over 30m from the development site.'
- There will be no significant impact on badger groups in the locality, either through loss of foraging habitat or disturbance.
- EclA methodology Response to RFI – Applicant contacted both the Parks Dept of the PA and the NPWS DAU to agree the methodology of the assessment before it was undertaken. The methodology combined the use of desk-based data and field surveys, and this was accepted by the PA who confirmed by email on 2nd September 2021 (see Appendix D) that

'With regards to the assessment area we wish to have the assessment to approximately 150m based on available information to the ecologist (e.g. aerial photography, habitat mapping, existing ecological records) access will not be fully available.'
- The methodology was also discussed with Conservation Office from NPWS DAU in October 2021 via phone call, who was satisfied with all works and measures being undertaken, and no further information was requested.
- Respectfully submit to the Board that the relevant governing bodies raised no issues to the methodology or contents of the comprehensive EclA which was submitted by the applicant at FI stage. Condition 13 of PA notification to grant requires that the recommendations and mitigation measures outlined in the EclA be fully implemented which the applicant is willing to comply with.

Aboricultural Impact

- Applicant's arborist has confirmed that the existing 2 no. pear trees on Castilla Park can be retained subject to appropriate building methods being utilised.
- The recommendations of the Arboricultural Report are required to be complied by Condition 13 of the grant of permission.

Impact on existing hedgerows and tree along the boundary with the application site

- Notes shared boundary between 77 Blackheath Park and the appeal site which comprises hedges and a tree which sits close to the boundary. A full response to concerns raised has been prepared by Charles McCorkell

Aboricultural Consultancy who had undertaken the tree survey as part of the RFI submission enclose at Appendix F.

Impact on Lombardy poplar tree T9

- Impact on Poplar Trees and their impact on soils and possible impact on stability, addressed by Magahy Broderick Associates enclosed at Appendix G.
- Arboricultural Consultant submits it was not necessary to obtain access to each neighbouring property to inspect their trees.
- A Root Protection Area (RPA) calculation is used in accordance with the British Standard 5837:2012 as per the requirements of the CDP and Tree Strategy for DCC.
- Dispute that the stem diameter has been underestimated and therefore the RPA, or that pollarding has reduced the water requirements of the tree. The tree is at a higher level than the application site and level change is likely to affect the spread of root growth.
- *Potential Future Damage to Structures* - Tree related subsidence only occurs on clay soils and is not considered an issue on this site.
- *House insurance* – Trees located outside the boundary of the site are the responsibility of their owner.
- *Proposed elevated roadway* – The road within the RPA of T9 has been proposed above the existing ground level.
- *Inaccurate location of trees on tree survey plan* –A minor discrepancy in the trees location will not significantly alter the impact of the proposal in the long term.

Other Comments

- The application for 3 houses would not set a precedent for further large-scale mews development (of up to 10 new dwellings in total).
- *Precedents for refusal* - Disputes appellants assertion that the granting of permission for a dwelling to the rear of 91 Blackheath Park (PA Reg.Ref. 4472/19) does not set a precedent for the current scheme.

- *Site Ownership* - Submit that the application site is wholly within the ownership of the applicant.

Summary – Request the Board to uphold the decision of the PA to grant permission.

6.3. **Planning Authority Response**

- 6.3.1. A response was received from Dublin City Council requesting the decision of the PA be upheld.
- 6.3.2. The PA note that if permission is granted a number of conditions are requested to be included, these include Section 48 development contribution, an open space condition and a bond condition.

6.4. **Third Party Observations**

- 6.4.1. A total of 22 no. third-party observations were received from the following;
- 6.4.2. 6 no. Third-party observations were lodged by the following Elected Representatives.
 1. Aodhán Ó Ríordain TD
 2. Cian O'Callahan TD
 3. Cllr. Catherine Stocker
 4. Cllr. Deirdre Heney
 5. Cllr. Naoise Ó'Muirí
 6. Seán Haughey TD
- 6.4.3. 16 no. Third-party observations were lodged by the following;
 1. Brian Martin
 2. Clontarf Residents Association
 3. Colm Rath
 4. David and Jan Killen
 5. David Cotter
 6. Desmond and Ann Crotty
 7. David and Frances Gorman

8. Diarmuid and Stephanie Murphy
9. Glenn Worley
10. Gonzala Martin
11. James Brian and Brenda Sullivan
12. Karl Ackland
13. Margaret Condell
14. Michael Bredican and Others
15. Orla Vickers
16. Sinead Flanagan and Paul Mulligan

6.4.4. I have read the third-party observations and issues raised which are similar to those raised in the grounds of appeal and are on file.

6.5. Section 131 Notices Following Judicial Review (JR)

6.5.1. Parties were initially invited by the Coimisiún to make submissions by 18th Nov 2024. Further to requests for an extension of the period within which to make responses all Parties were again invited to make a second round of submissions by 11th December 2024.

6.6. Third Party Appellants Responses to Section 131 Notices Following JR

6.6.1. Responses were initially received requesting an extension to the deadline for submissions from the following;

- Eimear and Shay Lydon
- Joanathan and Maureen Barry

6.6.2. Further third-party responses to the second round/ S 131 Notice extension were received from the following parties;

- Joanathan and Maureen Barry
- Thomas Vickers & Celine Rogers

6.6.3. I have read the third-party appellants responses and issues raised which can be summarised as follows;

- Opposed to proposed development.

Badger Activity and Studies

- Badger study carried out by Dr. Aoibheann Gaughran in 2021 notes that some historical badger setts can extend their tunnels to 250m, thus not making the 150m excessive.
- Suggest a second badger sett may exist on or very near to the site of 32 Castilla Park previously flagged in Dr. Gaughrans Badger Survey 2021.
- Badgers enter back garden of No. 31 Castilla Park nightly through the back hedge of No. 32 Castilla Park where they feed and forage.
- *Increase in Badger activity* - between August 2023 to November 2024, both on the site of 32 Castilla Park and in all properties adjacent to it. Submit that badgers are breeding and that a third badger has been seen regularly with up to five spotted.
- Refer to North Dublin ranger of the NPWS having visited the site of 32 Castilla Park in December 2023 and evidence of fresh badger latrines on site.
- *Loss of 'Eco corridors and grounds'* – Note housing developments in the surrounding area have removed foraging grounds for the badger. Submit that access point in 32 Castilla Park has become even more vital for the existing badger sett and notes even greater use of the northern hedgerow section to access more distant grounds.
- Refer to completion of hardcore tennis court in the back garden of 36 Seafield Road West which has blocked badgers accessing grounds to any properties to the left of the sett.
- *Insufficient up to date field surveys* – Site has been completely altered in the 3 years since the previous survey, as the site has been used as a building site and storage facility for another site in a neighbouring garden,
- Badger trail removed as more than 50% of front garden has been filled with hard core. Undergrowth at base of hedge and hedgerow removed.

- *Importance of hedgerows for badgers* - Previous surveys are out of date and new assessment on destruction of the badger habitat required. PA has failed to assess the impact of the loss of hedgerow and part it plays in landscape connectivity which could lead to irreversible effects on biodiversity.
- *Lack of input for ABP from specialist Ecologist in assessing reports from the 'Badger experts'* – Refer to recent application and ABP decision on PA Reg. Ref. 4817/23 with no expertise on Badgers.

Trees and Traffic

- Maturing trees will make it more difficult for emergency vehicles to access, narrow width of access roadway below the DMURS standard, swept path access to the site poses a hazard and sightlines are not as represented.
- Dispute conclusions in Developer's Transport Planning Study that the site access conforms to the standards in DMURS.

Backland Development

- Lack of engagement with owners of adjoining properties to formulate or develop a comprehensive plan which could potentially amalgamate sites and make a more sustainable and suitable development.

Other Comments

- Reference another appeal relating to similar badger protection issues and mitigation measures 4817/23 ask that decision not be issued until decision issued on this.

6.7. Applicant Response to Section 131 Notices Following JR

6.7.1. A response was received from RK Consulting Planning and Development Consultants dated 18/11/2024 now acting on behalf of the applicant Denali Holdings Ltd.

6.7.2. Request an extension of deadline to make submissions. The following reports updated November 2024 were submitted;

- Cover letter from Planning Consultant
- Planning Statement

- Architectural Design Statement
- Commentary on DMURS Compliance
- Letter from Wilson Architects
- Daylight and Sunlight Technical note on
- Letter from Chartered Engineer
- Connection Agreement for water supply and wastewater received now lapsed
- Response in relation to EclA and AA Screening, report dated 15th November 2024
- Technical note on Ecology dated 15th November 2024
- Letter from Arboricultural Consultancy

6.7.3. A further response from the applicant's agent was received questioning the purpose of inviting a second round of submissions when no new information or material has been circulated. No further comments.

6.8. **Planning Authority Response to Section 131 Notices Following JR**

6.8.1. A response was received from Dublin City Council dated 08/11/2024 requesting that if permission is granted a number of conditions are requested to be included, these include Section 48 development contribution, payment of a bond, payment of a contribution in lieu of open space, and a naming and numbering condition.

6.8.2. I note that a Development Contribution sheet has not been provided by DCC, however the Coimisiún can condition that Development Contributions be applied in accordance with the adopted Dublin City Section 48 Development Contribution Scheme.

6.9. **Third Party Observers Response to Section 131 Notices Following JR**

6.9.1. A further round of consultation was held, which attracted third party observations from the following;

- Des and Ann Crotty
- Clontarf Residents Association

- Karl Ackland

6.9.2. I have read the third-party observers' responses. To avoid unnecessary repetition new issues raised can be summarised as follows

Impact on badgers

- Evidence of damage/Badger activity - Photographs accompany the submission indicating damage done to the Badger trails, latrines, possible sett entrances and underground badger tunnels.
- Badger Activity has increased - Refers to North Dublin ranger of the NPWS having visited the site of 32 Castilla Park in December 2023 and evidence of fresh badger latrines on site. Submit that badger activity has increased rather than diminished. Marked increase in badger activity August 2023-November 2024.
- Badger Expertise - vitally important to any new decision.
- Protection of Protected Species - Failure to take into consideration all of the matters in respect of the protection of this protected species – the observer will, if necessary, refer the matters back to the Court in terms of the grounds of relief sought in the application for Judicial review. Badgers are protected under the Wildlife Act 1976 and the Berne Convention to which Ireland is a signatory.
- Badger Mitigation Measures - Concern that applicant will not abide by any badger mitigation measures that ACP may require by way of condition based on evidence of past experience of actions by developer.
- Policies in CDP 2022-2028 and DCC Biodiversity Action Plan 2021-2025 to protect biodiversity and protected species (including badgers) to be adhered to.
- Reference to Condition No. 2 of ABP decision on 2928/21 limiting works during the badger breeding season from 1st December to 30th June.
- Submit works carried out on site between August to December 2023 resulted in damage to badger trails, and any potential badger chambers or tunnels, contrary to condition no. 2 above.

Damage to Trees/Biodiversity

- Damage to two pear trees at the front entrance to 32 Castilla Park, by heavy machinery in December 2023 (photos attached).
- Refer also to 'Technical Guidance Document' on 'Biodiversity for Development Management in Dublin City'. Page 30 states 'applicants and property owners should avoid clearance of sites and ground disturbance prior to project planning and development and should retain existing scrub and hedgerow habitats. Applicants are required to ensure that site layouts should be planned to retain badger setts that are both currently and formerly used.'
- Any new decision by the Board must protect the full habitat of the badgers at the site and stop any future damage by the developer.
- 'Technical Guidance Document' outlines key threats to badgers posed by development, submits a grant of permission would result in the destruction of the badger population.
- Requirements in undertaking badger surveys are outlined and submit that the timing of the survey undertaken by Dr. Chris Smal on behalf of the applicant was outside the survey period recommended in the guidelines, and also in his own document entitled 'Guidelines for The Treatment of Badgers Prior to the construction of National Road Schemes.'

Traffic and Parking

- Concern that possible introduction of cycle lane along Vernon Avenue will exacerbate parking along Castilla Park.

Concurrent Application

- Request decision on 4817/23 at 21 Castilla Park not be made until a new decision has been made on 2928/21 as both are intrinsically linked.

Conclude

- Decision of PA should be quashed.

7.0 Assessment

7.1. Introduction

7.1.1. I wish to draw the Boards attention to the adoption of the Dublin City Council Development Plan 2022 - 2028, the launch of the Revised National Planning Framework (April 2025) and issuing of Section 28 Ministerial Guidelines namely the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 which have all come into effect since the initial application was lodged 10th June 2021. My assessment is based on current local and national planning policy.

7.1.2. Reference is made in the observations to the grounds of appeal to a concurrent application for works to the existing house at 32 Castilla Park. Permission was granted 20/11/2024 under PA Reg. Ref. 4817/23 ABP-320153-24, and this permission has not been implemented on site.

7.1.3. Having undertaken two site visits and having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and the reports of the local authority, and having regard to relevant local/ regional and national policies and guidance, that the substantive issues pertaining to the proposed development can be assessed under the following headings:

- Infill Development
- Layout, Density and Design
- Residential Amenity
- Landscaping and Boundary Treatments
- Ecology
- Access, Traffic Safety and Parking
- Precedent

7.2. Infill Development

7.2.1. The subject site is located in an area with the land use zoning Sustainable Residential Neighbourhoods – Zone Z1, the objective of which is 'To protect, provide

and improve residential amenities' as per the Dublin City County Development Plan 2022-2028.

- 7.2.2. In principle the demolition of the existing side extension, and proposed extension to the existing dwelling no. 32 Castilla Park and construction of 3 no. dwelling units would accord with this zoning objective. The proposed residential development also provides additional units which accords with the Core Strategy of the Dublin City County Development Plan 2022-2028.
- 7.2.3. Third Party appellants argue that the proposed development contravenes County Development Plan (CDP) policy as it relates to infill, back land and mews development, and materially contravenes the residential zoning objective. This is primarily on the basis of the relationship between the proposed houses and the existing residential properties which it is asserted would negatively impact on their existing residential amenity. I will consider the impacts on residential amenity under section 7.4 of my report below.
- 7.2.4. Under the Dublin City County Development Plan 2022-2028 Policy QHSN6 and QHSN10 seek to promote residential consolidation and sustainable intensification at sustainable densities particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 7.2.5. The applicant submits that the proposed development will make better use of an underutilised site, deliver much needed additional housing and is designed in line with the policies contained within the adopted CDP.
- 7.2.6. Section 15.5.2 of the CDP relates to development standards for infill development, described as 'lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form'. It is acknowledged that infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.'
- 7.2.7. Section 15.13.3 of the CDP sets out Council Policy specifically in relation to infill/side garden housing developments. It is noted that the Planning Authority seek to make the most sustainable use of land and existing urban infrastructure. This infill housing

should comply with all relevant development plan standards. However, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.

- 7.2.8. It is apparent therefore that, subject to qualitative safeguards, Dublin City Council will permit infill housing on appropriate sites within the city.
- 7.2.9. I have had regard to the configuration of the subject site and accept the individual houses each located to the rear of existing houses No.32 and No. 81 could be described as backland development. I also note comparisons made by third parties between the proposed house no. 81A to the rear of no. 81 Blackheath Park, and that approved and constructed to the rear of 91 Blackheath Park. In my opinion however this is not comparable as 91A is accessed directly from Castilla Park and the proposed residential development is to be served by a new internal road. I further note under the current CDP there is no policy in relation to Mews Development.
- 7.2.10. By reason of the existing pattern of development in the vicinity of the site, which is surrounded on three sides by established residential development, the appeal site can therefore, reasonably be seen to constitute an infill site.
- 7.2.11. Having regard to the area of the overall site and provision of an access road to serve all three proposed houses, I am satisfied that the subject site is most appropriately described as an infill site. My planning assessment, therefore, is on the basis that the proposed development is an infill development.
- 7.2.12. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) recognise the need to '*realise opportunities for adaptation and reuse of existing buildings and for incremental back land, brownfield and infill development, and deliver sequential and sustainable urban extension at locations that are closest to the urban core and are integrated into, or can be integrated into, the existing built-up footprint of the settlement.*'
- 7.2.13. The Revised National Planning Framework (April 2025) likewise emphasises the need to make the most sustainable use of serviced land within existing built-up areas which can avail of existing social and physical infrastructure. The framework seeks to promote well designed high-quality development that can encourage more people and generate more jobs and activity within existing cities.

7.2.14. The proposed infill development is in accordance with these general policy objectives and the most recent government plan to deliver 3000,000 new homes by the end of 2030 under Delivering Homes, Building Communities: An Action Plan on Housing Supply and Targeting Homelessness, 2025-2030 (November 2025).

7.2.15. Having regard to provisions of the current Dublin City Development Plan 2022-2028, and Guidelines for Sustainable Residential Development and Compact Settlements 2024, and current national policy to increase housing supply, the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.

7.3. Layout, Density and Design

7.3.1. The scheme proposes 3 no. dwellings, arranged with a pair of semi-detached houses to the rear/west of the existing house No.32 Castilla Park, and a single detached house to the rear/south of existing house No 81 Blackheath Park. The pair of semi-detached houses are 3 storeys in height while the detached house is 2 storeys.

7.3.2. The surrounding area is characterised by two storey detached dwellings to the west, along Seafield Road West, two storey terraced dwellings to the south along Castilla Park and two storey semi-detached dwellings to the north along Blackheath Park.

7.3.3. The site is to be accessed from the existing driveway entrance from Castilla Park with a roadway extending along the northern site boundary (adjoining the rear garden boundaries of existing houses along Blackheath Park). This new roadway would extend to the western boundary with a short spur proposed to the south serving the proposed pair of semi-detached houses.

Layout

7.3.4. Concerns are raised by third parties in relation to the layout of the development which is considered substandard.

7.3.5. I have had regard to the Architectural drawings and Architectural Design Statement prepared by Adrian Hill Architects dated April 2021 submitted with the application

and as amended by way of further information 25th January 2022. The Architectural Design Statement was further updated by Wilson Hill Architects dated 18th November 2024 and submitted in response to a Section 131 Notice.

- 7.3.6. The reports provide an overview of the development under the 12 parameters as outlined in the Urban Design Manual (A Best Practice Guide) (2009). The report includes a number of illustrative perspective drawings showing the proposed housing units and site levels within the scheme.
- 7.3.7. Having visited the site, and surrounding area, and reviewed the Architectural drawings and Architectural Design Statement, I am satisfied that the proposed layout makes optimum use of the site and that the three houses proposed can be accommodated at this location.

Density

- 7.3.8. Policy QHSN10 of the Dublin City County Development Plan 2022-2028 seeks 'to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.' Policy QHSNO4 supports the ongoing densification of suburbs, while Policy QHSN11 promotes the realisation of the 15-minute city.
- 7.3.9. The proposed development namely 3 no. dwellings, plus the existing dwellings 32 Castilla Park and 81 Blackheath Park equate to a density of approx. 25 units per ha.
- 7.3.10. The Guidelines for Sustainable Residential Development and Compact Settlements promote higher residential densities in the general range of 50-250 dph on city urban neighbourhood sites, and in the range of 40 to 80 dph on city suburban/urban extension sites.
- 7.3.11. The residential density proposed therefore, is below the density range for suburban/urban sites and could be considered to materially contravene the guidelines. I have had regard to the infill nature of the site and Section 15.5.2 of the CDP regarding infill development and am satisfied on balance the proposed development meets the development management requirements for such infill sites. I am further satisfied that the proposed density is appropriate on this infill site given the densities prevailing on adjoining residential developments.

7.3.12. I am satisfied that the proposed development would not therefore constitute overdevelopment of the site, is appropriate on an infill site at this location and that the proposed density is acceptable and would not materially contravene Section 15.5.2 of the CDP which relates to infill development.

Design

7.3.13. The pair of semi-detached houses proposed to the rear of No. 32 Castilla Park are both three storeys in height and substantial in scale. Each are referred to in the application as no. 32A and 32B. House no.32A is a five-bed with a stated floor area of 237sqm, while House no. 32B is a four-bed house with a stated floor area of 198sqm.

7.3.14. Both houses are described as two storey plus dormer and have a ridge height of 8.45m. The dormer structures are set into a mansard style roof profile which are finished in zinc.

7.3.15. While I accept that the roof profile of these two houses is different in terms of massing to the more typical pitched roof profile of the surrounding houses, I also note that in their context they are not that much higher than the overall ridge heights of dwellings in the vicinity. I also note from my site visit that many of the rear roof profiles of adjoining two storey houses have been extended at roof/attic level to provide large dormer window structures which themselves give rise to overlooking of the appeal site and adjoining properties.

7.3.16. In terms of visual intrusion, I accept that the proposed development will be visible from the rear elevations and gardens of adjoining houses. However, I am satisfied that in the case of the proposed houses 32A and B, that the scale massing and height proposed can be assimilated into the subject site.

7.3.17. House no 81A extends to c. 145sqm (with planning permission for an extension of c. 55sqm (DCC Reg. Reg. WEB1094/21) and 81A as proposed extends to c.129sqm. I am satisfied therefore that 81A will be subordinate to the existing house at 81.

7.3.18. In terms of the visual impact of proposed house no 81 A, I am satisfied given the length of the rear gardens to houses along Blackheath Park, the separation distances proposed from existing mature side boundaries, along with the design and profile of the proposed dwelling, that it will not give rise to a significant visual impact.

Therefore, I am satisfied that proposed development in terms of scale massing and height will not give rise to a significant negative visual impact

Finishes

- 7.3.19. Concerns are raised by appellants in relation to the introduction of a metallic finish to the proposed mansard style roof profile of proposed houses 32 A and B. I also note the proposed roof finish which comprises zinc to house no. 81A. I consider that the materials and finishes proposed which includes/introduces some variety in finishes is an acceptable design response for this infill site.
- 7.3.20. I am satisfied that the layout, density and design of the development take cognisance of existing residential development in the vicinity and the future occupants of the scheme and can be integrated into the existing built-up footprint.

Conclusion

- 7.3.21. Issues raised in the grounds of appeal in relation to Indicative Future Development on lands outside the appeal site are considered under section 7.8 of my report. While I note that the provision of public open space was not explicitly raised in the grounds of appeal, I address the issue under section 7.4 of my report.

Summary

- 7.3.22. In summary, I consider that the proposed infill development would not be out of character with the immediate area, and is acceptable in terms of layout, density, design and finishes.
- 7.3.23. I consider that the proposed development of 3 no. houses is appropriate at this location, on this underutilised site, and that the proposal is in compliance with Policy QHSN10, Policy QHSNO4 and Policy QHSN11 of the Dublin City County Development Plan 2022-2028. The proposed development is therefore, considered acceptable in principle.

7.4. Residential Amenity

- 7.4.1. Concerns are raised by third parties in relation to the impact of the proposed development on existing residential amenities of adjoining residential properties within Castilla Park and Blackheath Park. Concerns were also raised by the PA in

relation to the future residential amenity of future occupants of the proposed dwellings in terms of sufficient quality and quantity of private open space.

- 7.4.2. The appellants submit that the proposed development due to its massing scale design and proximity to site boundaries would adversely impact on the residential amenities of adjacent properties by reason of overlooking and overbearing appearance and would result in an undesirable precedent.
- 7.4.3. Chapter 5 of the 2022 -2028 Dublin City Development Plan relates to quality housing and sustainable neighbourhoods. Chapter 15 sets out further details in relation to site development standards, Section 15.5.2 relates to infill development.
- 7.4.4. Policy QHSN6 seeks 'to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.'
- 7.4.5. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities January 2024 set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.
- 7.4.6. Special Planning Policy Requirement SPPR1 relates to Separation Distances and states that '*It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms16 at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.*'

7.4.7. All back-to-back separation distances between first floor windows exceed 22m with the exception of the distance between the rear of 81 Blackheath Park and the proposed house at 81A, which will provide a separation distance of c 15.5m.

7.4.8. There are however no first floor windows proposed to the north/rear of the proposed house no. 81A. Revised elevations submitted in response to the request for further information also indicate no first-floor windows on the west side elevation and only one narrow bathroom window finished in opaque glazing located on the eastern elevation.

7.4.9. The revised elevations submitted in response to further information also include the omission of the originally proposed first floor terrace which was to be accessed from the front south facing elevation. Instead, the access doors to the terrace have been replaced with windows and partly includes the use of a perforated screen brick.

7.4.10. I am therefore, satisfied that there will be no potential overlooking of the rear garden of the adjoining house to the north at no.81, to the east at no. 79 or west at 83, and will not result in loss of privacy to the rear gardens of these properties.

Impact of proposed extension to No. 32 Castilla Park on adjoining dwellings

7.4.11. Concern was raised in relation to overlooking from the proposed first floor flat roof to the new two storey extension to the existing house No. 32 Castilla Park.

7.4.12. I have examined the site layout, first floor elevations and floor plans of the proposed extension relative to adjoining development.

7.4.13. The proposed extension to the rear extends by approx.3.5m at ground floor beyond the rear building line of the existing house and adjoins the rear side boundary with No. 31 Castilla Park (home to one of the appellants). The proposed ground floor extension is finished in a flat roof and includes two no. roof lights.

7.4.14. The two-storey flat roof element of the proposed extension is located to the northern side gable of No.32 and includes an ensuite bathroom extension to the rear. The first-floor element to the rear is set back approx. 3.8m from the side boundary with no. 31.

7.4.15. The proposed dormer to the rear is approx. 3.3m wide, is set off the side boundary with no. 31 by approx. 1.8m and serves an attic/study. I concur with the PA and consider the proposed extensions to the rear and side of the existing terraced house

no. 32 to be acceptable subject to a requirement to the use of obscure glazing to the proposed bathroom window at first floor.

7.4.16. I am satisfied therefore, that the decision of the PA to grant permission for the proposed extensions to No 32 Castilla Park, would not give rise to undue overlooking of the rear garden of house no. 31 Castilla Park or adjoining dwellings, and should be upheld.

Impact of proposed dwellings 32A and B on adjoining dwellings

7.4.17. It is proposed to provide a vehicular access along the northern side gable of No.32 Castilla Park to serve the two new proposed dwellings proposed to the rear of No.32. This requires the subdivision of the existing rear garden of No. 32 Castilla Park.

7.4.18. Concern was raised by the PA in relation to overlooking from the proposed first floor and dormer windows of the new two storey houses no. 32A and B located to the rear of No. 32 Castilla Park. The design was amended in the response to further information and conditions No. 6 and 7 of the notification of grant of permission. each required obscure glazing at first floor ensuite bathrooms to house 32A and 32 Castle Park, and restriction of the use of the flat roof to 32A.

7.4.19. The proposed semi-detached dwellings are two storeys in height and include a mansard style roof with an overall height of 8.45m. The houses are orientated east west with the front elevations facing the rear elevation of 32 Castilla Park. The houses are arranged in a staggered layout such that house no. 32A is set back approx. 20.8m from the rear elevation of no. 32, increasing to approx. 22m from the rear of existing house no 32. I also note the proposed first floor bedroom windows would be angled away from no 31 Castilla Park and rear garden and as such are not directly back-to-back. In addition to this a perforated brick has been added to part of the window to obscure views towards 31 Castilla Park.

7.4.20. I have examined the site layout, first floor elevations, floor plans, separation distances to existing and proposed dwelling units, orientation of the proposed dwellings relative to adjoining development, and particularly the adjoining mid terraced house and garden at No. 31 Castilla Park (home to one of the appellants).

7.4.21. I am satisfied having visited the adjoining terraced house and rear garden, at No. 31 Castilla Park which is located to the south of the appeal site, that the proposed

residential units will not give rise to undue overlooking or overbearance due to their orientation, separation distances and design.

- 7.4.22. The southern gable elevation of proposed house no. 32A is approx. 13.4m in length and is set off the rear side boundary with no. 31 Castilla Park by approx. 1m. The northern gable elevation of proposed house no 32B addresses the proposed internal access road. A single bathroom windows is proposed on the side gable elevation of no. 32A, which is indicated on elevation drawings to be finished in opaque glazing.
- 7.4.23. Within the mansard style roof, rooflights are proposed within the front roof profile, with a dormer style window proposed to the rear roof profile facing west. House no. 32B includes a dormer window to the north facing roof profile which accommodates a stairs.
- 7.4.24. I have examined the height massing and bulk along with separation distances to existing and proposed dwelling units to the north and am satisfied that the proposed residential units would not give rise to overdevelopment and can be accommodated on the site.
- 7.4.25. I have also examined the impact of the proposed houses on the adjoining residential properties to the west, and particularly the rear garden of No. 38 Seafield Road West (home to one of the appellants).
- 7.4.26. I am satisfied having visited the aforementioned rear garden, that the proposed residential units as viewed from the rear garden will not give rise to undue overlooking or overbearance due to separation distances and existing boundary treatments.
- 7.4.27. I am satisfied therefore, that the proposed houses no. 32 A and B have been designed to take cognisance of the residential amenities of adjoining residential properties. If the Coimisiún are minded granting permission similar conditions to no. 6 and 7 of the PA notification to grant permission can be attached.

Impact of proposed dwelling to rear of No. 81 Blackheath Park on adjoining dwellings

- 7.4.28. It is proposed to construct a new dwelling to the rear/south of No. 81 Blackheath Park which will be accessed from the proposed new vehicular access serving No. 32A and B. This requires the subdivision of the existing rear garden serving No. 81.

7.4.29. The rear garden length of the No. 81 Blackheath Park is approx. 29m from the rear elevation of the existing two storey house.

7.4.30. The proposed dwelling is located to the south of the existing house and addresses the proposed internal access road. The rear garden of the proposed house No 81A therefore, backs onto the rear garden and rear elevation of the existing house no. 81. No 81 is adjoined on either side by No. 79 to the west and 83 to the east.

7.4.31. Concerns were raised by third parties in relation to the impact of the proposed dwelling 81A Blackheath Park on the residential amenities of adjoining houses along Blackheath Park. Particular concerns were raised in the grounds of appeal in respect of the impact on residential amenities of the adjoining house and garden to the west of no. 79 Blackheath Park.

7.4.32. The PA also raised concern in relation to the proposed house 81A which it considered would have an insufficient separation distance with the existing house on site No. 81 Blackheath Park. The applicant submitted a revised layout/alternative design to allow for greater separation to the rear of proposed house 81A Blackheath Park. Drawings submitted indicate a separation distance of 15.5m.

7.4.33. I note from my site visit that the existing house at No. 81 Blackheath Park has been recently extended to the side and rear under PA Ref. WEB1094/21 granted 12/05/2021. This permission includes new boundary treatment to the rear garden which effectively subdivides the southern end of the garden from the smaller garden serving the main house.

7.4.34. I note also from my site visit to houses No. 79 and 77 and their respective rear gardens that each currently benefit from generous south facing rear gardens, bounded by mature hedges and trees along their side garden boundaries.

7.4.35. I have examined the site layout drawings, separation distances and orientation of the proposed dwelling to the rear of No. 81 relative to adjoining development and as revised in further drawings submitted by way of further information.

7.4.36. I have also examined the Daylight and Sunlight Assessment Report/Results 3D Design Bureau lodged with the application, and further Daylight and Sunlight Assessment Report submitted in response to further information in terms of overshadowing of adjacent rear gardens. The assessment was undertaken in line

with the Requirements of the BRE Guidelines. The Methodology is clearly explained as well as a glossary and definition of effect.

7.4.37. Sun lighting to existing neighbouring garden was assessed; it was demonstrated that each of the existing gardens meet the requirements of the BRE guidelines. The impact of the proposed development will be imperceptible in all of the neighbouring gardens assessed. The report concludes that there will be no unacceptable or even noticeable loss to neighbouring properties in terms of daylight or sunlight.

7.4.38. As the gardens of the immediately adjoining houses are all south facing, I am satisfied the proposed house will not result in significant overshadowing.

7.4.39. I am satisfied that the rear garden of no. 81 has the capacity to accommodate the relatively modest scale of the 2 storey 2-bed detached dwelling with a stated area of c.130sqm. In my opinion the design of the proposed house which reads as a single storey to the rear, reduces the massing of the proposed house and with no first-floor windows to the rear reduces the potential overlooking of adjoining rear gardens.

Private Open Space

7.4.40. Concerns were raised by the PA in relation to the depth of the rear garden combined with its north facing aspect would result in a poor quality private open space to serve the proposed house No 81, particularly given its orientation and quality of daylight and sunlight to this private amenity space.

7.4.41. As already noted, the applicant submitted a revised layout/alternative design to allow for greater separation to the rear of proposed house 81A Blackheath Park. I have had regard to the Daylight and Sunlight Assessment Report/Results 3D Design Bureau lodged with the application, and further Daylight and Sunlight Assessment Report submitted in response to further information. The rear garden serving no 81A has an area of 57.1% which is capable of receiving 2 hours of Sunlight on March 21st, which is above the 50% BRE requirement. I am satisfied that the proposed rear garden amenity space is sufficient in area and will not be significantly overshadowed and is acceptable in terms of residential amenity.

Public Open Space

7.4.42. Public open space requirements for residential development, are set out under Table 15-4 in Section 15.8.6. of the CDP. For residential developments in Z1 a minimum requirement of 10% is required.

7.4.43. I note that there is no public open space proposed as part of the subject application. In this regard Section 15.13.3 of the CDP which relates to Infill/Side Garden Housing Developments notes that 'in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.'

7.4.44. In my opinion the subject site represents an under-utilised site, and in this case, it is appropriate that the open space requirement be relaxed.

7.4.45. A financial contribution in lieu of open space is provided for under Section 15.8.7 of the CDP and was applied by the PA by way of condition no. 3 of the grant of permission. I am satisfied in this instance that it is more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity, and that the lack of public open space is acceptable.

7.4.46. The details on the value of the contribution in lieu and other exemptions are set out in the Dublin City Section 48 Development Contribution Scheme and any future amendments thereof.

7.4.47. If the Coimisiún are minded granting permission a suitably worded condition can be attached.

Summary

7.4.48. In summary, I am satisfied that the proposed development would be in accordance with Policy QHSN6 and Section 15.5.2 of the Dublin City County Development Plan 2022-2028, would not be seriously injurious to residential amenity, and would not therefore, materially contravene the residential zoning objective for the area. On this basis the decision of the PA to grant permission should be upheld.

7.5. Landscaping and Boundary Treatments

7.5.1. The subject site shares its boundaries with a number of existing rear gardens. The appeal site is bounded to the south by a mature hedge with no. 31 Castilla Park, to the west by a planted boundary with the rear garden of no. 38 Seafield Park and to

the north by the rear boundary hedges/timber fencing to the rear of houses along Blackheath Park. The site is bounded to the east by an existing low boundary wall which adjoins the public footpath.

- 7.5.2. Proposed Site Layout Plan with Boundary and Material Finishes Drawing No. (P)006 prepared by Adrian Hill Architects dated 25th January 2022 was submitted in response to the further information request by the PA and details proposed boundary treatments.
- 7.5.3. Concerns are raised in the grounds of appeal in relation to proposals to retain the existing dense hedgerow along the shared boundary between no 32 and no. 31 Castilla Park.
- 7.5.4. Concerns are also raised in relation to the removal of mature hedgerows and habitat along the northern garden boundary of 32 Castilla Park which adjoins the rear of properties along Blackheath Park to facilitate the proposed service road.
- 7.5.5. It is also submitted in the grounds of appeal that the arboriculture report fails to appreciate the ecological importance of this habitat as a transport route of local wildlife and specifically for badgers. Section 7.6 of my report deals with ecology issues.
- 7.5.6. Concern was raised in the grounds of appeal by Thomas Vickers and Celine Rogers in relation to the large poplar tree (T9) located to the rear of their dwelling no. 77 Blackheath Park. It is submitted that the location is incorrectly indicated on survey drawings and is closer to the proposed gable wall of the proposed dwelling no. 32B. It is also submitted that the stem diameter has been underestimated by over 25% and therefore subsequent calculations for 'Root Protection Area (RPA)'. It is further noted that pollarding (which reduces the water requirements of the tree) only occurs in the first year, and that the crown of the tree always regrows rapidly and more densely and therefore will require all of its current root system.
- 7.5.7. I have had regard to the Landscape Design Statement prepared by Caragh Garden Design lodged with the application and Arboriculture Report prepared by Charles McCorkell submitted by the applicant in response to FI. The Arboriculture Report includes a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement.

7.5.8. I have also had regard to the further response by Charles McCorkell who had undertaken the tree survey as part of the RFI submission (Drawing No. 210810-PD-11) and response by Magahy Broderick Associates which reviews the impact on the Poplar Tree and their impact on soils and possible impact on stability. These were submitted by the applicant in response to issues raised in the grounds of appeal.

7.5.9. I note from my site visit that the existing shared boundary between 77 Blackheath Park and the appeal site comprises hedges and a poplar tree which sits close to the boundary. I am satisfied that the applicant has correctly identified the location of T9 in their response to the grounds of appeal and demonstrated that the proposed works will not negatively impact on the tree root protection area. I note measures proposed by the applicant to protect the RPA include constructing the proposed roadway within the RPA of T9 above the existing ground level.

7.5.10. If the Board are minded granting permission a similar condition to that attached by the PA under condition no.13 in respect of tree protection and specifically the recommendations outlined in the Arboricultural Report be fully implemented.

7.5.11. Photographs of the site which accompany the grounds of appeal illustrate the site 'before and after' works were carried out namely within the front garden area of no. 32. These clearly show damage to the front garden area of the subject site. I can confirm from my site visit that the front garden and rear garden have building materials on site.

7.5.12. Concerns were raised by third parties and in the grounds of appeal in relation to damage/loss to two existing roadside pear trees. I can confirm from my site inspection that the two trees (T1 and T2) are located either side of the proposed vehicular entrance. Another roadside tree is located directly opposite and close to a lamp post on the bend to the west of the vehicular entrance serving house no. 8A. I can confirm from my site visit that there are marks on the barks of these trees likely from large vehicles as noted in observations to the appeal. Urban trees however are vulnerable to damage, and every care should be taken to protect existing roadside trees, particularly during construction.

7.5.13. The Arboricultural Report confirms that the trees can be retained during construction, *'the construction of the vehicular entrance will require excavation works within the rooting areas of these two trees (T1 and T2). To minimise any impact on the trees,*

all excavation works should be contained within the footprint of the existing footpath and should completely avoid encroaching into the rectangular area of soil located around the stem base of each tree. The existing footpath outside No. 32 Castilla Park has recently been refurbished. It is likely that the root growth from T1 and T2 is situated beneath the existing sub-base layer of the refurbished footpath. Provided sensitive construction methods are carried out, and excavation works do not extend substantially beyond the sub-base layer, it should be possible to install the drop kerb without significantly damaging the roots of the tree.'

- 7.5.14. The report goes on to state that excavation works are required to be carried out under the supervision and guidance of the arboriculutal consultant. If root pruning is necessary, this will only be undertaken if approved and signed off by the arboricultural consultant. The contractor and arboricultural consultant will also liaise with DCC' Parks Department during the proposed works if they are required.
- 7.5.15. I can confirm from details submitted that both these trees T1 and T2 are not identified for removal. The Tree Protection Plan identifies instead a tree protection zone in the area of T1 and T2, with the timber stem protection to be installed around the trees prior to the construction of new entrance. While I share the concerns of the residents in relation to protecting these and other roadside trees particularly opposite the entrance, I am satisfied that the proposals included in the tree protection plan submitted, are sufficient to protect them.
- 7.5.16. I note the request in the grounds of appeal that a 2m high screen wall along the rear side boundary between no. 31 and 32 Castilla Park be conditioned in any future grant of permission. This is deemed necessary by the appellant given the proximity of the new house and turning area.
- 7.5.17. In my opinion a 2m high wall along this boundary is not warranted and would interfere with wildlife crossing between the rear gardens. I am satisfied therefore that the existing hedgerow along the southern boundary should be retained as indicated on Proposed Site Layout Plan with Boundary and Material Finishes Drawing No. (P)006 prepared by Adrian Hill Architects dated 25th January 2022.
- 7.5.18. From my examination of the Arboricultural Report and Tree Removal Plan it is only proposed to remove one tree labelled as T22. This tree is located along the western boundary of the site and is identified as a Leyland Cypress.

7.5.19. In summary, I consider that the proposed works are acceptable and subject to adherence with the recommendations outlined in the Arboricultural Report and the mitigation measures outlined in the Ecological Impact Assessment would be in accordance with Green Infrastructure Policies GI13 and GI14 of the Dublin City County Development Plan 2022-2028. The decision of the PA to grant permission should be upheld.

7.6. **Ecology**

- 7.6.1. Concerns were raised by third parties in relation to the impact of the proposed development on ecology and specifically in relation to the impact on badgers.
- 7.6.2. Third parties have submitted details of the location of an existing badger sett located in the rear garden of a property to the west and provided evidence of badger activity in the gardens and along boundaries in the vicinity of the appeal site.
- 7.6.3. A Badger sett is located in the rear garden of no. 38 Seafield Road West which adjoins the appeal site to the west and is home to one of the appellants Thomas and Phylomena Byrne.
- 7.6.4. A Badger Survey Report carried out by Dr. Aoibhinn Gaughran (dated 26th October 2021) accompanied the third-party appeal submitted by Maureen and Jonathan Barry owners of no. 31 Castilla Park which adjoins the appeal site to the south.
- 7.6.5. A number of the appeals are accompanied by photographs of badger activity both within the rear gardens of No. no. 38 Seafield Road West, no. 31 Castilla Park and to the rear of properties to the north which bound the site, including no. 79 and 77 Blackheath Park home to appellants Shay and Emer Eimear Lydon and Thomas Vickers and Celine Rogers.
- 7.6.6. The key points raised relate to
 - Level of expertise within the Board in assessment of ecology namely badgers
 - Impact of building works and excavations on the existing badger sett at no. 38 Seafield Road West.
 - Failure to carry out inspections and survey within 150m radius, or carry out any ground penetration radar (GPR) either on the site of 32 Castilla Park or

on any of the properties within 150m as required by the DAU and PA request for further information,

- Requested survey is required to comply with the Wildlife Act 1976 and Berne Convention.
- Access to adjoining properties to carry out survey.
- Loss of hedging along northern boundary used as foraging and use as eco corridor.
- Recent housing developments and hardcore tennis court completed in the back garden of no. 36 Seafield Road West have already reduced feeding areas for badgers and proposed development will impact on future survival.
- Increased badger activity between August 2023 to November 2024.
- Insufficient up to date field surveys taking account of alterations/damage to appeal site.

7.6.7. I have had regard to the Ecological Impact Assessment submitted by the applicant in response to the request for FI, the applicant's response to the grounds of appeal submitted by Malone O'Regan in response to EclA issues and further technical note on Ecology dated 15th November 2024 by Gannon and Associates Landscape Architects. These all outline the existing habitats and proposed boundaries to the proposed dwellings and adjoining residential properties which have been updated accordingly. Potential impacts of the proposed works and mitigation measures are clearly identified.

7.6.8. The Ecological Impact Assessment notes that a detailed Construction Environmental Management Plan (CEMP) will be prepared and submitted to Dublin City Council for approval in advance of the works. It also notes that vegetation clearance works will be subject to monitoring by an appointed Ecological Clerk of Works (EcOW) to ensure that the works will be completed in line with the measures and recommendations made within the EclA alongside the finalised CEMP.

7.6.9. Condition no. 13 of the notification of grant of permission requires that the recommendations outlined in the Arboricultural Report and the mitigation measures outlined in the Ecological Impact Assessment submitted as further information be

implemented in full, in the interest of tree protection and to protect biodiversity in the urban environment.'

Ecological Assessment and Impact on Badgers

- 7.6.10. Appendix 1 of the EclA report, prepared by Dr. Chris Smal (dated 20th January 2022) provides results of a badger survey undertaken and assessment of badger activity at the subject site.
- 7.6.11. The applicant in response to issues raised in the grounds of appeal have submitted a further response from Dr. Smal (dated 19th April 2022) which comments on the report of Dr. Aoibhinn Gaughran.
- 7.6.12. The applicant in its correspondence with the Coimisiún on 18th November 2024 submitted two further documents which reference updated site inspections of badger activity in 2024 at the proposed development site.as follows;
 - Malone O'Regan Environmental – Response in relation to EclA and AA Screening, report dated 15th November 2024, and
 - Gannon and Associates Landscape Architects - Technical note on Ecology dated 15th November 2024
- 7.6.13. The updated site inspections in 2024 recorded badger activity at the subject site, and both documents conclude that conclusions and recommendations are unchanged from the original EclA and badger report submitted to the PA. I note the Technical note on Ecology dated 15th November 2024 by Gannon and Associates Landscape Architects also refer to the appointment of a EcOW and requirements under the CEMP.
- 7.6.14. Mitigation measures proposed are set out in section 6 of Dr. Smalls report. These include seasonal restrictions on construction works, restriction on working hours, erection of hoarding around the site and management of trenches and open pipes on site. These mitigation measures for the protection of badgers during the construction phase are also set out under section 5.2.1.1. Section 5.2.2.1 of the EclA sets out mitigation measures for the protection of nocturnal species during the operational phase and relate to the avoidance of excessive outdoor lighting.
- 7.6.15. Dr. Smals report concludes that

- the proposed works will have no direct impact on the badger sett or its tunnel system, as it is located at over 30m from the development site.
- The loss of the garden plot c. 0.2ha would be insignificant in terms of foraging habitat for badgers in the area.
- Badgers using the gardens of no. 32 and 81 will be forced to alternative pathways to access their foraging grounds to the north and east, and in the long term may return to use the same corridors.
- There will be no significant impact on badger groups in the locality either through loss of foraging habitat or disturbance.
- Mitigation measures provided will minimise disturbance to badgers.

7.6.16. Section 5.2 of his report notes that the usual maximum length of a tunnel within a sett system is c. 3 to 5m and as the boundary of the garden of no. 32 is situated at 32m from the container there is no possibility of the sett tunnels extending that far.

7.6.17. Section 5.3 of his report notes that the PA request for a badger survey within 150m of the subject site sett is considered unfeasible and would not provide useful information in relation to the present issue.

7.6.18. The Badger survey report submitted by Dr. Aoibheann Gaughran on 26th October 2021, surveyed adjoining gardens at 38 Seafield Road West, 31 Castilla Park, 79 and 73 Blackheath Park and the adjoining laneway. The report notes that access to the appeal site was not possible.

7.6.19. The report acknowledges that the '*central position of 32 Castilla Park in the area is pivotal for allowing ranging and foraging, in particular the hedging that runs along its northern boundary*', and concludes that '*the integrity of the property in its current state is vital for continued access for badgers from their sett in 38 Seafield Road to the wider foraging grounds in Castilla Park and Blackheath Park and indeed the viability of the sett at 38 Seafield Road*'.

7.6.20. The response by Dr. Smal dated 19th April 2022, on behalf of the applicant to issues raised in respect of the report prepared by Dr. Gaughran was submitted to An Coimisiún Pleanála.

7.6.21. In this response Dr. Smal disagrees with conclusions reached by Dr. Gaughran and notes that badgers have alternative routes for foraging grounds and that they are

highly adaptable mammals so they will not be so disadvantaged by the loss of habitat from the proposed development site so as to abandon the sett at No. 38. Conclusions from his earlier report (January 2022) are reiterated.

- 7.6.22. I can confirm from my site visit 12th March 2025 which I carried out in the company of the Coimisiún's in house Ecologist, that there was evidence of Badger activity on the site of the proposed development No 32 Castilla Park. The extent of badger activity on the subject site is accepted and not disputed by any party to the appeal.
- 7.6.23. I can also confirm that we visited the rear garden of the adjoining property to the west at 38 Seafield Road West and that there was clear evidence of a badger sett and badger activity along the rear garden boundary of 38 Seafield Road West which adjoins the western boundary of the appeal site.
- 7.6.24. I can also confirm from my second site visit 3rd November 2025 that I visited the rear garden of no. 81 Blackheath Park, and the rear gardens of house nos. 79, and 77 Blackheath Park located to the north of the appeal site. There was evidence of badger activity certainly along the rear garden boundaries of house nos. 79, and 77. I can also confirm from my second site visit evidence of badger activity within the front and rear garden of no. 31 Castilla Park.
- 7.6.25. A Technical Note has been prepared by the Coimisiún's in house ecologist and is included as Appendix 4 of my report. The Technical Note informs my assessment of the issues raised in the grounds of appeal.
- 7.6.26. The in-house Ecologist has assessed both Badger reports submitted by the applicant and in the grounds of appeal considers issues raised by third parties, and the DAU in relation to Badger activity.
- 7.6.27. From the outset it is acknowledged by all parties that there is evidence of badgers passing through the subject site and using it for foraging. It is also acknowledged that the existing badger sett identified in the application is not located within the appeal site. It is further acknowledged that Badgers are protected under the Wildlife Act but are not an endangered species.
- 7.6.28. I can confirm my site visit and review of the drawings and details submitted that the distance between the badger sett reported at the container in the grounds of no. 38 Seafield Road West and the proposed site boundary is approx. 32m. I would also

note that the nearest proposed house no. 32A is located a further 5m from the rear boundary and therefore approx. 37m from the existing badger sett.

Survey

- 7.7. While I note the absence of a physical survey of all properties within 150m of the development site and a GPR survey as request by the DAU, I also note that the nature of the proposed works will not require significant excavation or blasting works which could cause damage to badger tunnels. Construction works will be temporary and can be subject to oversight from an Ecological Clerk of Works.
- 7.8. I note the Technical Note prepared by the Coimisiún's in house ecologist which considers the survey approach to be acceptable, on the basis that there is no badger sett identified within the proposed development site and the distance from the boundary of the proposed development site to the nearest badger sett (at No. 38 Seafilled Road West) which is at least 30m.
- 7.9. I am satisfied therefore that the survey approach adopted by the applicant is acceptable in this case.

Loss of badger foraging habitat at the proposed development site

- 7.9.1. Proposed site layout plan Drawing no. (P)006 Adrian Hill Architects submitted in response to FI request indicates proposed site boundaries.
- 7.9.2. Boundary treatment A is indicated to the rear and side garden boundaries of 32A and 32B comprising timber fence panel with concrete plinth base. Tree Protection Plan drawing 210810-P-12 by Charles McCorkell submitted in response to FI indicates that post holes of proposed rear boundary of 32A and 32B are to be excavated with hand tools only.
- 7.9.3. Drawing no. (P)006 – Proposed Site Layout Plan with Boundary Material Finishes, dated January 2022 indicates boundary treatment A along the western boundary of No.32 Castilla Park which adjoins the laneway at the rear of the property. I note the technical note of the in-house ecologist with respect to this boundary, and concerns raised that it does not allow sufficient space at the base of the fence to allow mammal access. I concur with the recommendation to include a condition which would allow for an amended boundary treatment along the western boundary to facilitate badger access into the proposed site.

7.9.4. Drawing no. (P)006 indicates the location of the proposed footpath which extends along the northern boundary, and it is indicated on the drawing that the existing boundary is to be retained. It is not therefore proposed to construct a new boundary along this northern boundary, and other than the provision of the footpath no other works are proposed in this area of the site.

7.9.5. It is acknowledged that there has already been some loss of foraging habitat both within the front garden of the appeal site, along the northern planted boundary and within gardens further to the west of the appeal site.

7.9.6. I note from figure 3 of the Gannon and Associates Landscape Architects - Technical note on Ecology dated 15th November 2024 which identifies the location of the badger corridor along the northern boundary of the appeal site which is outside the 50m radius of the badger sett.

7.9.7. I noted from my site visit of the appeal site and rear gardens of the appellants properties to the north that the shared rear boundary is heavily planted in places and in others reasonably open such that in my opinion badgers can still move easily along the existing eco corridor both along and between sites.

7.9.8. I note the conclusions reached in the Ecological Impact Assessment submitted in response to the request for further information which state '*that the site itself is of low or moderate ecological value, is not of value to any Annex I or Annex II species or Red listed birds, and that the proposed development will not result in any significant impacts on ecological receptors identified both on-site and in the surrounding area following the implementation of the appropriate mitigation measures*'.

7.9.9. I am satisfied that the proposed development is in accordance with the Dublin City Biodiversity Action Plan 2021-2025 and requirements of the Technical Guidance Document as it relates to the retention of existing scrub and hedgerow habitats.

Mitigation Measures

7.9.10. I concur with the opinion of the in-house ecologist that mitigation measures outlined are '*sufficient for the prevention of significant negative impacts to badgers and would be standard on any site in the vicinity of a badger sett.*', and conclusion reached '*that the proposed development will not result in any significant impacts on the local badger population once mitigation measures are in place.*'

7.9.11. The report of the in-house ecologist refers also to mitigation measures outlined in the in the EclA report regarding artificial lighting for nocturnal species. It is recommended that all outdoor lighting to be implemented on site should mitigate against any potential impacts on nocturnal species in line with Bat Conservation Trust Guidelines on bats and artificial lighting in the UK (BCT 2018). It is noted by the in-house ecologist that this guidance has since been updated to BCT 2023 Bats and Artificial Lighting at Night Guidance Note 08/23.

7.9.12. If An Coimisiún are minded granting permission conditions can be included to ensure that all mitigation measures outlined by the applicant in the application and appeal response are adhered to.

Summary

7.9.13. I am satisfied therefore, subject to the mitigation measures outlined in the Arboricultural Report and the mitigation measures outlined in the Ecological Impact Assessment submitted as further information being fully implemented, that the proposed development will not have an unacceptable impact and that the biodiversity in the urban environment including badgers can be protected.

7.10. Access, Traffic Safety and Parking

7.10.1. Concerns were raised by the third parties in relation to access, traffic safety and parking. The application was accompanied by a Traffic Report prepared by Traffic and Transportation Planning Consultants.

7.10.2. The grounds of appeal by Aoibhinn Hamill comments in detail on this Traffic Report, and the applicant in their response to this appeal submitted a response by TPS Ltd. which is included as Appendix C.

7.10.3. In the further response to issues raised in third party appeals the applicant submitted a statement from MHL Engineers which confirms that the proposal is in compliance with DMURS.

7.10.4. Concerns are raised in relation to ongoing access difficulties during peak collection and delivery periods to Belgrove Primary school on Seafield Road, where parents use the pedestrian laneway at the end of the cul de sac within Castilla Park.

7.10.5. The Traffic Report prepared by Traffic and Transportation Planning Consultants lodged with the application notes that the proximity of the St. John the Baptist Primary schools to the south which gives rise to short term traffic and parking, related to dropping off or collecting school children. The report also notes that the estate also serves as a walkway/cycleway connecting Castilla Park to Seafield Road which is adjacent to these schools and Clontarf GAA Club.

7.10.6. Concern is also raised that additional 3 houses and further 7 potential houses exiting in and out onto this narrow roadway, with overspill parking onto the estate road will further impede traffic and pedestrian movements along Castilla Park. Issues raised in relation to Future Indicative Development to be served by the proposed internal road serving the proposed development are dealt with in section 7.3 of my report above.

Access to the development from Castilla Park

7.10.7. Castilla Park is a cul de sac serving 32 residential units and is accessed to the east by a simple priority T junction with Verona Avenue (R808). In addition to the 32 houses in the original Castilla development, a further infill corner house at no. 8A and backland development to the rear of 91 Blackheath Park are also accessed from Castilla Park.

7.10.8. Concerns are raised in the grounds of appeal in relation to the restricted carriageway width along Castilla Park of 4.8m which in addition to the absence of off streetcar parking leads to congestion along Castilla Park which more recently has been exacerbated by building works.

7.10.9. No. 32 Castilla Park does not currently have onsite vehicular parking or driveway but does include an existing pedestrian gated entrance. The entrance connects with the existing footpath to the west of a concave road bend within Castilla Park residential estate.

7.10.10. The pedestrian footpaths contain tree planting along both sides of the carriageway. Street lighting is located within the footpath adjacent to the westbound and southbound carriageway.

7.10.11. It is accepted by all parties that the existing road carriageway is relatively narrow. I note that two thirds of the houses are provided with in curtilage driveways, and on the morning of my site inspection on street parking was limited to outside

those properties with no on-site parking to the front. Although I would note that houses along Castilla Park are served by laneways which do provide rear access to rear gardens and garages.

7.10.12. The Traffic Report prepared by Traffic and Transportation Planning Consultants lodged with the application concludes that the proposed development will have a negligible impact on the Castilla Park estate road.

7.10.13. While I accept that the existing arrangement at Castilla Park allows for access to the nearby schools and community sports clubs, I do not consider that the proposed development for an additional 3 no. houses will result in a significant intensification of use to warrant a refusal.

7.10.14. The issue of school traffic is a common thread running through the grounds of appeal. It is a reality however in urban areas that schools located in established residential areas generate traffic. On the morning of my site inspection, I did not observe any traffic congestion along Castilla Park or access difficulties for residents, as the vast majority of trips observed were by pedestrians and cyclists.

7.10.15. It is also submitted in the grounds of appeal that the road width at Castilla Park does not comply with DMURS and that the PA should not have approved any further intensification of use of what is considered a sub-standard public road.

7.10.16. I note the Transportation Planning section of the PA raised no objection to the creation of a new vehicular access and internal roadway serving the proposed houses.

7.10.17. Vehicular access to the development is proposed from Castilla Park by means of a new priority T junction arrangement located within the site frontage boundary of 32 Castilla Park.

7.10.18. I note from TPS Drawing No.121-A15-SL01 the overall width of the existing Castilla Park Road is approx. 9.8m resulting in a carriageway width of 4.9m.

7.10.19. TPS Drawing No.121-A15-SL01 submitted with the application indicates visibility sightlines of 23m in both directions from a 2m set back at the entrance.

7.10.20. The internal carriageway width is indicated on this drawing as increasing from 4.8m at its narrowest inside the entrance.

7.10.21. I note the Traffic Report submitted with the application confirms that the proposed access arrangements and resulting sightlines are in line with the requirements of the Design Manual for Urban Roads and Streets 2019 (DMURS).

7.10.22. I have had regard to the statement from MHL Engineers which sets out how compliance with DMURS standards can be achieved. Measures include providing a shared surface along the new access road with the junction with Castilla Park. A shared surface is defined within DMURS as '*a street where pedestrians, cyclists and vehicles share the main carriageway and where pedestrians have priority of movement over other users*'.

7.10.23. It is also recommended that a change in colour and texture from that within Castilla Park be applied over the full length of the shared surface and that a standard kern height should not be used, with an embedded kerb line to be installed into the carriageway to indicate the area for pedestrians. In my opinion this is achievable.

7.10.24. Within Castilla Park a 30kph speed limit applies. Section 4.4.3 of DMURS relates to junction design. Forward visibility standards are outlined in Section 4.4.4 which require a forward visibility of 23m s in areas within a design speed of 30km/h.

7.10.25. As already outlined the proposal provides for these visibility sightlines and are therefore in compliance in the required standards.

7.10.26. I am satisfied therefore that the internal road serving the proposed development is acceptable and meets DMURS standards.

7.10.27. Issues raised in relation to the construction of the internal roadway and impact on existing trees along site boundaries and on street trees are addressed in section 7.5 of my report above.

Traffic Safety

7.10.28. Concerns are raised in the grounds of appeal in relation to traffic safety particularly in relation to pedestrian safety, lack of cycle lanes and the high concentration of school children that use Castilla Park Road.

7.10.29. Having inspected the site and noting that the proposed entrance is located on a concave shaped section of roadway, I consider that the geometric design of Castilla Park lends itself to achieving adequate sightlines in both directions from the proposed entrance.

7.10.30. The fact that the site also accesses onto a relatively narrow roadway which ends in a cul-de-sac thereby prohibiting through traffic will also ensure that traffic will travel relatively slowly along the road which will reduce the potential of a traffic hazard. I also note given the road is a cul de sac that the majority of traffic movements will be right in and left out only.

Access for Emergency Vehicles and Refuse Trucks

7.10.31. Concerns were raised by appellants in the grounds of appeal regarding the Swept Path Analysis submitted. Specifically, it is submitted that the vehicle tracking two step manoeuvres required for a refuse vehicle depicts potential for traffic conflict and congestion and relies on unobstructed access at all points.

7.10.32. I have examined the Fire Tender Swept Path Assessment and Refuse Vehicle Swept Path Assessment submitted by the applicant with the application and in the response to the grounds of appeal included as Appendix C. I am satisfied that the swept path drawings confirm that the site can be assessed and egressed by fire tenders and refuse vehicles in a forward gear.

7.10.33. The issue of construction traffic and concerns in respect of access for emergency vehicles was also raised in the grounds of appeal given recent experience with the construction of house to the rear of no. 91 Blackheath Park. The subject site is however considerably larger and can accommodate construction vehicles and storage of building materials without recourse to using other lands. I am satisfied that subject to an agreed Construction Management Plan with the PA that this issue can be addressed by way of a condition.

Traffic Survey

7.10.34. I have had regard to the Traffic Report lodged with the application, which included a Traffic Survey, in addition to the updated Engineering Drawings submitted in response to FI.

7.10.35. I have also had regard to the updated Traffic Report prepared by TPS Ltd. submitted by the applicant in response to issues raised in the grounds of appeal provided at Appendix C.

7.10.36. The Traffic Report prepared by Traffic and Transportation Planning Consultants lodged with the application notes the proximity of the St. John the

Baptist Primary schools to the south which gives rise to short term traffic and parking, related to dropping off or collecting school children. The report also notes that the estate also serves as a walkway/cycleway connecting Castilla Park to Seafield Road which is adjacent to these schools and Clontarf GAA Club.

7.10.37. A Traffic Survey using (Trip Rate Information Computer System) TRICS was carried out, which determined that the typical AM peak hour and PM peak hour trip generation is 3 movements at each hour (inbound and outbound trips combined).

7.10.38. I am satisfied that the projected daily trip generation therefore would not be significant during the typical day or during AM or PM peak house. I am satisfied that the infill development of three houses is likely to have a negligible traffic impact on the adjacent Castilla Park estate.

7.10.39. It is submitted in the grounds of appeal that the additional dwellings included in the applicants 'Proposed Trip Generation' model does not have a sound baseline analysis assessment, as the existing baseline is already overcapacity at least three times every day during the school terms.

7.10.40. I further note on my second site visit of Mon 3rd November 2025 at school drop off time between 8.15am and 9am that the majority of through traffic was by pedestrians and bicycles with only a few cars accessing and parking along Castilla Park. I counted approx. 6 cars within the school drop off period which either parked on the footpath or at the turning circle closest to the pedestrian link to Seafield Road. I did not witness any traffic congestion or conflict between pedestrians, cyclists, scooters, buggies or vehicles.

7.10.41. The peak traffic during my site visit was at approx. 8.30am and on the day of my visit the overall duration of trips (approx. over a 20-minute period) and as such of short-term duration.

7.10.42. I am satisfied that the Traffic Survey carried out is robust, and concur with the findings of the Traffic Report, that the proposed development would give rise to a negligible traffic impact. I do not consider the addition of 3 no. houses would give rise to a significant cumulative impact on traffic along Castilla Park.

Parking

7.10.43. Concerns were raised in relation to the limitation by condition to provide a reduced no. of car parking spaces and consequent potential for overspill parking from the proposed development given the lack of visitor car parking. This is a common theme through the grounds of appeal.

7.10.44. The proposed layout provides for parking for two cars to the front of the existing house at 32 Castilla Park and the proposed houses to the rear at 31A and 32B. The proposed house to the rear of 81 Blackheath Park is provided with one car parking space to the front. The total no. of car parking spaces proposed therefore is 7 in total. The Transportation Planning section of the PA raised no objection to the proposed parking identified but recommended that 6 no. car parking spaces be permitted.

7.10.45. Condition no. 8 of the notification of decision to grant permission requires that a maximum of 6 no. parking spaces only is permitted to serve the proposed development. The applicant has indicated in the response to the grounds of appeal that that are willing to provide 7 no. spaces as originally proposed should the Board consider it appropriate.

7.10.46. The subject site is located in Parking Zone 2 as identified on Map J of the Dublin City County Development Plan 2022-2028. Parking Zone 2 occurs alongside transport corridors and car parking provision is restricted on account of the proximity of these locations to public transport.

7.10.47. I am satisfied that parking provision proposed is in accordance with current County Development Plan car parking standards and would also note that the parking standards are maximum requirements. I am also satisfied given the location of the subject site within walking distance of high frequency public transport corridors and essential daily services including schools, that the provision of a reduced no. of car parking spaces is appropriate at this location. This will not only promote active travel but also lead to a more sustainable development.

7.10.48. In my opinion, the issue of on street parking has been overstated in the appeal. I do not consider the addition of 3 no. houses would give rise to a significant cumulative impact on car parking along Castilla Park.

7.10.49. If An Coimisiún are minded granting permission, a condition restricting the number of car parking spaces to 6 can be attached.

Summary

7.10.50. I am satisfied therefore, that the proposed access, and traffic generated can be accommodated within the existing road network, is acceptable in terms of traffic safety and convenience, and would not give rise to a traffic hazard.

7.11. Precedent

7.11.1. The grounds of appeal submit that permitting the proposed development would set an undesirable precedent for further such development. This concern arises as a drawing submitted with the application labelled '*Indicative Future Development*' indicates seven no. additional houses to be served by the proposed internal access road, located in the rear gardens of the houses on either side of no 81A Blackheath Park to the north of the proposed internal road.

7.11.2. Concerns were raised in relation to potential significant intensification of traffic and associated parking at Castilla Park, in addition to the potential to open up development in the rear gardens of properties on the north side of Seafield Road West.

Indicative Future Development

7.11.3. Concerns were raised by the planning authority regarding the Indicative Future Layout drawing. The internal road serving the proposed development was also originally indicated extending to and terminating at the western boundary indicating an access to potential future development.

7.11.4. In the response to the further information request an amended drawing was submitted by the applicant omitting additional dwellings outside the red line boundary of the application site and reference to any future access for future development.

7.11.5. Concerns were raised by the third parties in relation to the inclusion of this drawing without any consultation with the owners of the rear gardens along Blackheath Park, and the potential future development of adjoining lands.

7.11.6. In addition, concerns are raised by the third parties in relation to the inclusion of Condition No.14 of the notification of decision to grant permission. This condition requires the developer enter into a section 47 agreement with the PA which would allow for provision of a shared access over the proposed access way. The condition

states that 'this shared access shall make provision for facilitating the possible future development of lands to the west, north and east' which would allow for co-ordinated development.

7.11.7. The First Party maintain that the drawing indicating the potential for future development on adjacent sites submitted with the application was in response to a request by the PA at pre planning stage, solely to illustrate and that permission being sought is as described in the public notices.

7.11.8. The First Party has further indicated that they are willing to engage with the adjacent landowners in relation to access should access be required in the future and request the Board to omit Condition no. 14 on the basis that it is not required.

7.11.9. In my view the reason for including the Indicative Future Layout drawing originally to the PA has been justified by the applicant. In the circumstances however concerns raised by the third parties are also valid, particularly given the no. of potential additional houses indicated on lands outside the applicant's ownership, potential further development to the west, and apparent lack of consultation with adjoining landowners.

7.11.10. I am satisfied however that the issue has been addressed by the applicant in the response to the grounds of appeal and am satisfied that the proposal relates only to those units described in the public notices.

7.11.11. I am satisfied, therefore, that the applicant has addressed issues around the potential future development of the adjoining lands in their response to the grounds of appeal. I am also of the opinion if the Board are minded granting permission that this condition No. 14 should be retained in the interest of facilitating future access to development. I am further satisfied that that the proposed development would not prejudice the potential future delivery of houses at this location, and that any future application will be assessed on its own merits.

Other Recent Precedents

7.11.12. The precedent for refusals by Dublin City Council was raised by the third parties in addition to precedents for grants of permission cited by the applicant in the subject application.

7.11.13. I do not intend to discuss the merits or otherwise of individual decisions but would draw the attention of An Coimisiún to recent planning decisions and residential development in the vicinity, particularly with the passing of time and adoption of the Dublin City Development Plan, National Planning Policy and Section 28 Guidelines since the application was lodged.

7.11.14. I note the decision of An Coimisiún under ABP-320153-24 dated 20/11/2024 to grant permission for demolition of the existing shed and associated courtyard walls, extension to the rear and side, attic conversion and all associated site and boundary work at 32 Castilla Park. This proposal contains some of the same aspects of the development proposed under the current application. I note this permission has not been implemented on site.

7.11.15. I note the decision of An Coimisiún under ABP-307180 dated 18/11/2020 to grant permission for construction of a house to the rear of no. 91 Blackheath Park with access from Castilla Park. This permission has been implemented on site.

7.11.16. This precedent is cited by the applicant as a constructive precedent as it relates to the subdivision of the rear garden and construction of a house to the rear of no 81 Blackheath Park with access from Castilla Park. I would accept this viewpoint, and although not directly comparable to the subject site, it does set a precedent for residential development in the rear garden of an existing house on Blackheath Park.

7.11.17. I further note reference is made by third parties to a back land residential development to the rear of no. 28 and 30 Seafield Road West permitted under PA Reg. Ref. 3779/20 which was for 3 no. houses. A subsequent application for amendments was approved was also approved by the PA under PA Reg. Ref 4111/22. A masterplan drawing indicating the layout of potential future development was submitted at compliance stage for the permission under Reg. Ref 4111/22 and includes potential layout of additional houses.

7.11.18. Again, any future planning application at the site subject of this appeal will be assessed on its own merits in accordance with the Dublin City Development Plan, National Planning Policy and Section 28 Guidelines. I do not accept that a grant of permission on this case would set a constructive precedent.

Summary

7.11.19. I am satisfied therefore, that the granting of permission for the proposed development would not set a precedent and am satisfied that the decision of the PA to grant permission should be upheld.

8.0 AA Screening

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The subject site is not located within or adjacent to any European Site.

The proposed development is located within a residential area and comprises construction of 3 dwellings and all other ancillary works.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development proposed,
- Location in a serviced urban area, distance from nearest European Sites, and urban nature of intervening habitats and, absence of ecological pathways to any European Site.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in-combination with other plans and projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission should be **granted** subject to conditions for the reasons and considerations as set out below.

10.0 Reasons and Considerations

10.1. Having regard to the infill nature of the proposed development located on existing residential zoned lands in the Dublin City County Development Plan 2022-2028, the development standards in the Dublin City Development Plan, and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), and the documentation submitted with the application and appeal including the Ecological Impact Assessment, the technical note provided by the Coimisiún's Ecologist, 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 amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience and is acceptable in terms of ecological impacts. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 received by the planning authority on the 25th day of January 2022, 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.

Reason: in the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: in the interest of visual amenity.

3. The proposed house no. 32A Castilla Park shall be modified as follows:
 - a) En-suite bathroom window at second floor level/attic level shall be fitted with permanently obscure glazing.
 - b) The flat roof of the proposed dwelling shall not be used for recreational purposes, and the roof shall be accessible for maintenance purposes only.

Reason: In the interest of the protection of residential amenity

4. The proposed extension to the existing dwelling no. 32 Castilla Park shall be modified as follows:
 - a) The window to the proposed ensuite bathroom at first floor shall be fitted with permanently obscure glazing.
 - b) The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual and residential amenity.

5. The proposed boundary treatment design along the western garden boundary of house no. 32A and 32B shall be amended such that badger access to foraging grounds can be maintained. The boundary treatment design shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.

Reason: To ensure the protection of badgers.

6. All outdoor lighting shall be implemented in accordance with Bat Conservation Trust Guidelines 2023 Bats and Artificial Lighting at Night Guidance Note 08/23.

Reason: In the interest of biodiversity and ecology protection.

7. All mitigation and monitoring measures outlined in the Ecological Impact Assessment Report, and Arboricultural Report received by the planning authority on 25th January 2022, and appeal response shall be implemented in full by the developer.

Reason: In the interest of biodiversity and ecology protection.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of residential and visual amenity.

9. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: in the interest of public health.

10. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: in the interest of public health and to ensure adequate water/wastewater facilities.

11. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: in the interest of amenity and of traffic and pedestrian safety.

12. A maximum of 6 no. parking spaces only are permitted to serve the existing and proposed dwellings on site.

Reason: In the interest of public safety and the proper planning and sustainable development of the area.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: in the interest of amenity and public safety.

14. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: in the interests of visual and residential amenity.

15. The construction of the development shall be managed in accordance with a Construction 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 construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: in the interests of public safety and residential amenity.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for storage, separation and collection of waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each house plot shall be submitted to, and agreed in writing with, the planning

authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

Reason: in the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

19. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Housing Estate Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

20. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been

possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

22. Prior to commencement of development, the developer shall enter an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act 2000(as amended), which shall allow for the provision of shared access over the proposed accessway. This shared access shall make provision for facilitating the possible future development of lands to the west, north and east.

Reason: In the interest of co-ordinated development.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 developers, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

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

25. The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in respect of public open space facilities benefitting development in the area of the planning authority that is

provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 developers, or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

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

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.

Susan McHugh
Senior Planning Inspector

27th November 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ABP-321091-24
Proposed Development Summary	Construction of 3 dwellings and all other ancillary works
Development Address	32 Castilla Park & 81 Blackheath Park, Clontarf, Dublin 3.
	In all cases check box /or leave blank
<p>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) 	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
<p>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</p>	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	Class 10(b)(i) 500 residential units.
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<p>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</p>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10(b)(i) 500 residential units 3 no. dwellings proposed.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	ABP-321091-24
Proposed Development Summary	Construction of 3 dwellings and all other ancillary works
Development Address	32 Castilla Park & 81 Blackheath Park, Clontarf, Dublin 3.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<ul style="list-style-type: none"> The proposed development is for a small infill residential development within the established residential area of Clontarf. The site is connected to public services and is consistent with the pattern of development in the area.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>Briefly comment on the location of the development, having regard to the criteria listed</p> <ul style="list-style-type: none"> No designations apply to the subject site. The development would be connected to the public wastewater services.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<p>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</p>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA

There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 3

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the proposed development, in light of the requirements of S177U of the Planning and Development Act 2000 as amended. In addition, the application is supported by the following documentation

- Ecological Impact Assessment,
- Assessment of Badger Activity
- Tree Survey,
- Arboricultural Report,
- Appropriate Assessment Screening

These documents have been prepared on behalf of the Applicant and the objective information presented informs the screening determination.

The site is located to the rear of existing residential properties in Clontarf Dublin 3. I have provided a detailed description of the site location and its surrounding context in section 1 of my report, while the development is described in detail in section 2. Detailed specifications of the proposed development are provided in other planning documents provided by the Applicant. In summary, the development seeks planning consent for the construction of small infill residential development comprising a total of 3 no. residential units (houses). The development will also include all ancillary site works.

I am satisfied that the information allows for a complete examination and identification of any likely significant effects of the development, alone or in combination with other plans or projects, on European Sites.

There are no Natura Sites within the immediate vicinity of the appeal site. The nearest designated site South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located c. 0.7km to the south of the appeal site., and c. 1.1km from the North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (Site Code 004006).

European site (SAC/SPA)	Site code	Distance to subject site	Connections (source, pathway, receptor)	Considered further in Screening (Y/N)
South Dublin Bay and River Tolka Estuary SPA	004024	0.7km	No potential connections	N
North Dublin Bay SAC	000206	1.1km	No potential connections	N
North Bull Island SPA	004006	1.1km	No potential connections	N

In the case of the each of the SPA's and SAC, there are no direct hydrological pathways from the proposed development site to the European Sites. Indirect hydrological pathways would only arise during operation, and there are inherent design standards in relation to surface water disposal (SuDS and petrol interceptors) to address this that are not considered mitigation measures for the purposes of Appropriate Assessment. Potential significant effects are unlikely as there are no source – pathway – receptor linkages and each European Site is therefore screened out. In this regard, it is considered that the construction and operation of the proposed development will not impact on the conservation interests of the Designated Sites and no potential impacts are foreseen.

Step 2: Potential impact mechanisms from the project

The proposed development will have no significant effects upon the designated sites identified. It is noted that there are no individual elements of the proposed project that are likely to give rise to negative impacts on these aforementioned sites. In addition, there is a sufficient distance between the application site and all designated areas within its Zone of Influence to ensure that no impacts will arise. Furthermore, there are no source-pathway-receptor linkages between the application site and the designated areas identified. Having regard to the foregoing, there will be no direct, indirect or cumulative impacts upon the qualifying interest (habitat or species) arising from the proposed development.

Steps 3 & 4: European Sites at risk from impacts of the proposed project and likely significant effects on the European site(s) 'alone'

N/A

Step 5: Where relevant, likely significant effects on the European site(s) ‘in-combination with other plans and projects’

The development of this infill residential scheme is catered for through land use planning, including the Dublin City Development Plan 2022-2028, covering the location of the application site. This plan has been subject to AA by the Planning Authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is located on serviced and zoned lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

I have considered ‘In-Combination/Cumulative Impacts’ in terms of other developments or proposed developments in the surrounding area and potential cumulative impacts were considered. I have had regard to a number of permitted developments within the site surrounds; these mainly relate to other residential developments and would be subject to the similar construction management and drainage arrangements as the subject proposal. Therefore, I conclude on the basis of objective information, that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

Overall Conclusion - Screening Determination

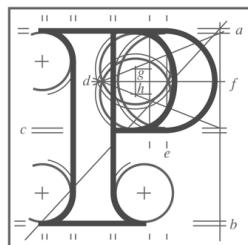
In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000, as amended) is not required.

This conclusion is based on:

- Ecological Impact Assessment,
- Assessment of Badger Activity
- Tree Survey,
- Arboricultural Report,
- Appropriate Assessment Screening
- The limited zone of influence of potential impacts, restricted to the immediate vicinity of the proposed development.
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.
- Distance from European Sites.

I note that no measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

Appendix 4



An
Coimisiún
Pleanála

Technical Note ABP-321091

Development

Construction of three dwellings in the rear gardens of 32 Castilla Park and 81 Blackheath Park, Clontarf, Dublin 3, with vehicular access proposed through Castilla Park. The proposal also includes for some works to the existing property at 32 Castilla Park.

Planning Authority & Reg. Ref.

Dublin City Council (2928/21)

Applicant(s)

Denali Holdings Ltd

Type of Application

Normal Planning Appeal

Inspector

Susan McHugh

Ecologist

Fiona Patterson

Topic

Specialist ecologist assistance on potential impacts on badgers

Report No

R321091_TN Ecology

Date

27th November 2025

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12.0 Introduction

12.1. Background

12.1.1. Potential impacts on a badger sett, tunnels and badger foraging areas were raised in third party submissions.

12.1.2. The Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage in its observation dated 4th August 2021 noted that a badger sett was observed by an NPWS conservation ranger in the garden of the neighbouring No 38 Seafield Road West property on 29th July 2021. The ranger noted that the sett was located about 30m from the proposed development site (No 32 Castilla Park) and that the badgers appeared to be accessing the proposed development site to forage. The DAU in its observation supported the recommendation by the Planning Authority that the *“applicant be requested to submit an Ecological Assessment of the development site as Further Information in order to clarify whether any sett occurs on this site and how the development proposed might impact on the badgers inhabiting the sett in the neighbouring property”*.

12.1.3. An Ecological Impact Assessment (EIA) was requested by the Planning Authority in a further information (FI) request dated 9th August 2021 as follows:

“The applicant is requested to submit an ecological survey and assessment report carried out for the application site and the adjacent area (including lands within c.150m of the application site boundary). The assessment shall be carried out by a qualified ecologist, with experience in badger ecology. The assessment will include the proposed development and the potential impacts of the indicative wider masterplan development. The appointed ecologist will liaise with the NPWS on the location and access to a badger sett located to the rear garden of 38 Seafield Road West. The potential impact should be assessed and sett tunnels/chambers should be mapped using non-invasive geophysical methods such as GPR¹ with the consent of landowners and within the application site. Prior to commencement, the methodology of this survey and assessment to be approved by the NPWS and the Planning Authority”.

¹ GPR – Ground Penetrating Radar

12.1.4. An email on the file from the Planning Authority to the agent for the Applicant dated 2nd September 2021 notes the following in relation to the badger assessment area:

“with regards to the assessment area we wish to have the assessment to approximately 150m based on available information to the ecologist (e.g. aerial photography, habitat mapping, existing records) as physical access will not be fully available”.

12.1.5. In response to the FI, an EclA, prepared by Malone O'Regan Environmental on behalf of the Applicant (dated 21st January 2022) was submitted to the Planning Authority. Appendix 1 of the EclA report, prepared by Dr Chris Smal (dated 20th January 2022) provided the results of a badger survey undertaken in 2021 and assessment of badger activity at the proposed development site.

12.1.6. Subsequently, the Planning Authority granted permission for the proposed development. Condition No 13 related to the protection of the environment (which includes badgers). This grant of permission was then appealed to An Bord Pleanála.

12.1.7. A badger survey report, prepared by Dr Aoibheann Gaughran (dated 26th October 2021) was submitted to the Board as part of the third-party appeal. That report consists of the results of a badger survey undertaken by Dr Gaughran at the gardens of 31 Castilla Park, 38 Seafield Road West, 79 Blackheath Park, 73 Blackheath Park, and the laneway between Castilla Park and 38/40 Seafield Road. According to Dr Gaughrans report, the objective of her survey was to record tracks and signs of badger and identify commuting routes/paths around the proposed development at 32 Castilla/81 Blackheath Park. Dr Gaughrans report concluded that the integrity of the 32 Castilla Park property *“in its current state is vital for continued access for badgers from their sett in 38 Seafield Road to their wider foraging grounds in Castilla Park and Blackheath Park, and indeed for the viability of the sett at 28 Seafield Road itself”*.

12.1.8. Third party appellants and observers to the appeal raised concern in relation to potential deficiencies in the scope of the 2021 badger survey carried out by Dr Smal (Appendix 1 of the EclA report), in particular the survey timing, that a physical survey of all properties within 150m of the development site and a ground penetrating radar (GPR) survey was not undertaken. They also raised concern in relation to the loss of badger foraging habitat at the proposed development site, the loss of access to

alternative foraging areas and the potential for a second sett to be present in the vicinity.

12.1.9. A further response by Dr Smal (dated 19th April 2022) on behalf of the Applicant, to issues raised in respect of the badger survey report prepared by Dr Aoibheann Gaughran was submitted to the Board.

12.1.10. The Applicant in its correspondence with the Board on 18th November 2024 submitted two documents which reference updated site inspections of badger activity in 2024 at the proposed development site as follows:

- Malone O Regan – Response in relation to EclA and AA Screening, report dated 15th November 2024
- Gannon & Associates Landscape Architecture – Technical note Ecology, report dated 15th November 2024.

12.2. Scope of Specialist Ecology report to Inspector

12.2.1. Specialist ecological support is requested regarding impacts on badgers.

12.2.2. This report to the Planning Inspector and which is available to the Commission is a written record of my review and examination of the submitted information and will support the assessment regarding impacts on badgers.

12.3. Site Visit

12.3.1. I visited the proposed development site on 12th March 2025.

13.0 Documentation

13.1. I have read all the documentation attached to this file relating to badgers including inter alia, the badger reports/correspondence prepared by the Applicant and third-party appellants, the appeal submissions, observations and the report of the Planning Authority. I also visited the proposed development site on 12th March 2025 and the garden of the neighbouring No 38 Seafield Road West. I observed the badger sett located in the garden of No 38 Seafield Road West.

13.2. Malone O'Regan EclA Report (dated 21st January 2022) on behalf of Applicant including Appendix 1 - Badger report authored by Dr Smal

13.2.1. Consultation: Section 1.3 of the EcIA report provides details on consultation undertaken with the Planning Authority and the NPWS in relation to the badger survey methodology and assessment approach. Whilst the FI (dated 9th August 2021) had requested GPR mapping, it appears that the survey methodology subsequently agreed between the Planning Authority and the Applicant did not include GPR, as evidenced in the email on the file from the Planning Authority to the agent for the Applicant dated 2nd September 2021 (See Section 1.5 above).

13.2.2. Expertise: Section 1.1 of Appendix 1 provides details on the badger expertise of the author Dr Smal. He conducted the national survey of badgers in Ireland (Smal, 1995). He has conducted considerable applied research on badgers and has produced the “*Guidelines for the Treatment of Badgers on National Road Schemes for the NRA*” (NRA 2006, now TII).

13.2.3. Methodology (Section 3 of Appendix 1): The 0.2 ha proposed development site was inspected by Dr Smal on 24th August 2021 in good weather conditions with a follow up visit on 3rd October 2021. The report notes no survey constraints, minimal vegetation present and all of the development site could be accessed. The site and adjacent laneway were searched for badger setts and signs of activity.

13.2.4. Survey results (Section 4 of Appendix 1): Badger snuffle holes, latrine and tracks were all observed within the proposed development site during the survey. No badger sett was located within the proposed development site. The report notes the presence of a badger sett (as previously reported by NPWS ranger) to the southwest of the proposed development site in the garden of No 38 Seafield Road West. The report states the distance between the badger sett and the proposed development site boundary is approximately 32m.

13.2.5. Assessment (Section 5 of Appendix 1)

- The report notes that there is evidence of badger passing through the proposed development site and using it for foraging. The report confirms that there is no sett within the proposed development boundary and no evidence of any sett close to the boundary.
- Dr Smal in Section 5.2 of the report notes (from his experience excavating over 120 setts) that “*tunnels do not extend far from a sett entrance. In all of the excavations that I have conducted, the tunnel systems were mapped. No*

tunnel stretched for more than 11m underground – it is simply not possible for badgers to excavate longer tunnels as they would need to move the soil they have excavated too far. In fact, the usual maximum length of a tunnel within a sett system is c. 3 to 5m". Dr Smal goes on to state that "in the case of the sett at the shipping container (at No 38 Seafield Road West), it may be considered that any tunnel constructed under the sett would not extend further than a very maximum of 10m from the container and more likely, only 3 or 4m or less". Dr Smal concludes that "the boundary of the garden of no. 32 (No 32 Castilla Park) is situated at 32m from the container, so there is no possibility of the sett tunnels extending that far".

- The report notes that it is possible that badgers from the identified sett (at No 38 Seafield Road West) could travel up to 500m or more and that there are open areas and large garden areas within 500m and beyond. The report notes that the loss of 0.2ha site is insignificant in terms of loss of foraging habitat and that that badgers will negotiate alternative pathways to access foraging areas and their territory during construction.
- The report states that survey of badgers in an urban residential area is usually not practicable as access to many gardens front and rear is simply not feasible, as the badger groups in the area may well forage over distances greater than 500m, and possibly up to 1km, finding their signs in hundreds of residential gardens is not practicable. The report notes that the Planning Authority request for a badger survey within 150m of the subject site is considered unfeasible, that knowledge of some badger activity in other gardens near Castilla Park would not assist in understanding the badgers in this area given their range may be over 500m.

13.2.6. Mitigation Measures and Conclusions (Section 6 of Appendix 1)

- Section 6 of Appendix 1 takes a precautionary approach in relation to potential impacts on the identified sett in No 38 and states that no construction works shall be conducted in the proposed development site during the badger breeding season, as such could be within 50m of a potential breeding sett. It states that works may be conducted outside of the breeding season (breeding season is December to June inclusive) as the sett

(at no 38 Seafield Road West) is considered to be more than 30m from the site. Other mitigation measures proposed in the Appendix 1 and in Section 5.2.1.1 of the main EclA report address construction impacts on badger. Mitigation measures proposed in section 5.2.2.1 of the main EclA report address operational impacts on badger.

- I note that Section 5.2.1.1 of the EclA report discusses mitigation regarding artificial lighting for nocturnal species and notes that all outdoor lighting to be implemented onsite should mitigate against any potential impacts on nocturnal species in line with Bat Conservation Trust *Guidelines on bats and artificial lighting in the UK* (BCT 2018). This document would have been the latest guidance at the time of publication of the EclA. However, this guidance has since been updated to *BCT 2023 Bats and Artificial Lighting at Night. Guidance Note 08/23*. I recommend that all outdoor lighting to be implemented should be in line with BCT 2023 guidance.
- The EclA report concludes that the proposed development of the site will not have a significant impact on badgers nor on the sett at No 38 and that the mitigation measures proposed will minimise disturbance to badgers in the immediate locality.

13.3. Badger Survey Report on behalf of third-party appellants

13.3.1. A badger survey report prepared by Dr Aoibhean Gaughran, mammal ecologist, TCD, was submitted to the Board as part of the third party appeal from Maureen and Jonathan Barry. A survey of the gardens of 31 Castilla Park, 38 Seafield Road, 79 and 73 Blackheath Park and adjacent laneway was conducted by Dr Gaughran on 23rd October 2021. Her report noted that access to the proposed development site was not possible. Her report notes that the badger sett at No 38 was observed during the survey as well of signs of badger activity in the surrounding gardens. Dr Gaughran concludes in her report that “*the arrangement of walls where they occur mean that the central position of 32 Castilla Park in the area is pivotal for allowing ranging and foraging, in particular the hedging that runs along its northern boundary* and that the “*integrity of the property in its current state is vital for continued access for badgers from their sett in 38 Seafield Road to their wider foraging grounds in*

Castilla Park and Blackheath Park and indeed for the viability of the sett at 38 Seafield Road".

13.4. Applicant response to third-party appellants badger report

13.4.1. A response by Dr Smal dated 19th April 2022, on behalf of the Applicant to issues raised in respect of the report prepared by Dr Gaughran was submitted to the Board. He disagrees with Dr Gaughrans conclusions. He notes the badgers have alternative routes to their foraging grounds and that they are highly adaptable mammals so they will not be so disadvantaged by the loss of habitat from the proposed development site so as to abandon the sett at No 38 Seafield Road West. He reiterates his conclusions from his earlier report (January 2022) in his response.

13.5. Updated site inspection by Applicant

13.5.1. The Applicant in its correspondence with the Board on 18th November 2024 submitted two documents which reference updated site inspections in 2024 which recorded badger activity at the proposed development site. Both documents concluded that the conclusions and recommendations were unchanged from the original 21st January 2021 EclA and Appendix 1 badger report.

- Malone O Regan – Response in relation to EclA and AA Screening report, dated 15th November 2024
- Gannon & Associates Landscape Architecture – Technical note Ecology, dated 15th November 2024.

14.0 Assessment

14.1. Having reviewed the documentation on the file and having visited the site on 12th March 2025, I consider that the extent of evidence provided by the Applicant and Appellants provides sufficient details of the extent of badger activity on the site.

14.2. I note the Appellants concern that a physical survey of all properties within 150m of the development site and that a ground penetrating radar (GPR) survey was not undertaken. Based on the evidence provided, I accept the reasoning proposed in Dr Smals report (Appendix 1 of EclA report) as discussed above in Section 2.2.5. I consider that a GPR survey and that a survey of all properties within 150m of the development site in an urban area to be disproportionate to the scale of works

proposed and given the nature of the reported impacts on badger from this development. There is no badger sett identified within the proposed development site and no evidence of any sett close to the garden. The distance from the boundary of the proposed development site to the nearest identified badger sett (at No 38 Seafield West) is at least 30m, therefore any tunnels from this sett will not extend into the proposed development site and will not be impacted by the works. I note the consultation undertaken by the Applicant's Ecologist with the Planning Authority in preparation of their survey. I consider the survey approach is acceptable.

- 14.3. I note the Appellants concerns that the surveys carried out by Dr Smal were outside of the typical survey window (24th August and 3rd October 2021). NRA 2006 guidance states "*badger surveys are significantly constrained by vegetational cover and season, and are best conducted from November to April, all areas have to be systematically searched...*" Given that the Dr Smal report noted no survey constraints, good weather conditions and that all of the site could be accessed, I consider that the badger survey was not constrained by vegetation cover and thus provides sufficient detail on badger activity at the development site.
- 14.4. I consider that the Applicant has demonstrated sufficient badger expertise to carry out a robust survey, that the survey has been carried out with regard to best practice guidance and that there is sufficient detail on the extent of badger activity within the development site and surrounding area such that a robust impact assessment can be carried out.
- 14.5. I refer the Inspector to the applicant drawing No (P)006 - *Proposed Site Layout Plan with Boundary and Material Finishes*, dated January 2022. I note that *boundary treatment A* is proposed along the western boundary of No 32 Castilla Park which adjoins the laneway at the back of the property. I consider that this boundary treatment does not allow sufficient space at the base of the fence to allow for mammal access due to the presence of a 200mm high concrete plinth at the base of the timber fence panel. I consider that it is reasonable that a condition could be added such that boundary treatment details are amended along the western boundary and that these could be agreed with Planning Authority in order to facilitate badger access into the proposed development site.

14.6. I consider that the scale of the proposed development is unlikely to significantly impact the local badger population once mitigation measures as recommended in Section 6 of Appendix 1 and Section 5.2 of main EclA report are in place in addition to the proposed condition discussed above in Section 3.5.

14.7. I consider that the mitigation measures proposed by the Applicant are sufficient for the prevention of significant negative impacts to badgers and would be standard on any site in the vicinity of a badger sett. These include a restriction on construction work during the breeding season and provision of appropriate fencing to maintain access corridors around the site while excluding badgers from the actual construction site itself.

14.8. I note that Condition No 13 in the Planning Authority grant of permission is reasonable in relation to the protection of badgers. It states the following: *"The mitigation measures and monitoring commitments identified in the Ecological Impact Assessment Report, the Arboricultural Report and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Ecological Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement. Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development".*

14.8.1. Badgers are a protected species under the Wildlife Act 1976, as amended (the "Wildlife Acts"). Section 23(5)(d) of the Wildlife Acts states that any person who wilfully interferes with or destroys the breeding place or resting place of any protected animal shall be guilty of an offence. I am satisfied that the proposed development is in compliance with the Wildlife Acts.

15.0 Conclusions/Recommendations

15.1. I consider that the proposed development will not result in any significant impacts on the local badger population once mitigation measures are in place.

15.2. In the event of a grant of permission, a condition should be provided to ensure that all mitigation outlined in the Applicants report and Applicant appeal response is adhered to. In addition, the boundary treatment design along the western boundary of the site at no 32 Castilla Park shall be amended such that badger access to foraging grounds can be maintained. The boundary treatment design shall be submitted to, and agreed in writing, with the Planning Authority. I consider that the above suggested conditions should be provided to ensure no significant impacts on badgers arise.

15.3. As noted previously in my report, Section 5.2.1.1 of the EclA report discusses mitigation regarding artificial lighting for nocturnal species and notes that all outdoor lighting to be implemented onsite should mitigate against any potential impacts on nocturnal species in line with Bat Conservation Trust Guidelines on bats and artificial lighting in the UK (BCT 2018). This document would have been the latest guidance at the time of publication of the EclA. However, this guidance has since been updated to BCT 2023 Bats and Artificial Lighting at Night. Guidance Note 08/23. I recommend that all outdoor lighting to be implemented should be in line with BCT 2023 guidance.

Signed:



Fiona Patterson, BSc, MSc, MISEP CEnv

Senior Ecologist Inspector

27th November 2025

Appendix 5

Screening the need for Water Framework Directive Assessment

Determination

The subject site is located c. 2.6km east of the River Tolka.

The proposed development comprises demolition of single storey extension to side of existing house No. 32 Castilla Park and construction of three no. two storey houses.

No water deterioration concerns were raised in the planning appeal. No issues were raised by the Water Services section of the Planning Authority in relation to the management of surface water on the entrance road including SuDS proposals.

A standard surface water drainage management condition has been attached by the PA.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from the nearest Water bodies and/or lack of hydrological connections
- Conclusion
- I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.