



An
Coimisiún
Pleanála

Inspector's Report ABP-322344-25

Development	Demolition of house and construction of 4 houses. Flood defence works scheduled under ABP-307746-20.
Location	'Capri', Whitechurch Road, Rathfarnham, Dublin 14.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD24A/0170
Applicant(s)	Gerard O'Connor
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Gerard O'Connor
Observer(s)	Martin Hegner Fiona and James Baldwin Emer Daly
Date of Site Inspection	2 nd July 2025
Inspector	Aoife McCarthy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.15 hectares and is located on the eastern side of Whitechurch Road (R115), Rathfarnham, Dublin 14. The site is located within an established suburban area and is primarily residential in character.
- 1.2. The site abuts the side boundary of a terrace of two storey residences within Whitechurch Stream estate to the north and the rear garden of properties within Willbrook Lawn estate to the west.
- 1.3. The Whitechurch Stream extends along the eastern and part of the southern boundaries of the site; separate the site from Whitechurch Road to the east. The site is otherwise bound by a motor showroom garage to the south.
- 1.4. The site consists of a single storey dwelling within the north-west of the site, accessed via a vehicular bridge over the stream to the site.
- 1.5. On the day of the site visit, access to the site was via a temporary access from Whitechurch Road at the position of the permitted access over Whitechurch Stream (ABP Ref.: JP06S.307746).
- 1.6. The Whitechurch Stream connects to Owenadoher River to the north of this site. It is noted that EPA GIS mapping identifies this section of the stream within the site as Owenadoher River (Owenadoher 010).

2.0 Proposed Development

- 2.1. The proposed development consists of:

Demolition of existing dwelling (105m²) and construction of 4 no two storey semi-detached 3 bedroom dwellings, 6 carparking spaces, landscaping, new boundaries and associated site development. Flood defence works on the site are scheduled as part of the Whitechurch stream flood alleviation scheme under planning permission granted by Bord Pleanála case reference JP06S.307746.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a decision to refuse permission for a single reason, as follows:

1. Having regard to the provisions of the 2022-2028 South Dublin County Development Plan, the proposed development, by reason of failure to feature adequate sustainable drainage systems, provide for adequate landscaping and green infrastructure, and meet Green Space Factor requirements, would not accord with the following policy objectives:
 - GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) in accordance with South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.
 - GI5 Objective 4: To implement the Green Space Factor (GSF) for all qualifying developments comprising two or more residential units and any development with a floor area in excess of 500 sq. m.
 - GI1 Objective 4: To require development to incorporate Green Infrastructure (GI) as an integral part of the design and layout concept for all developments in the County.

Furthermore, the development as proposed, by reason of failure to provide sustainable drainage systems, fails to overcome previous reasons for refusal under Reg. Ref. SD22A/0069.

The failure of the proposal to adhere to these policy objectives results in a development that is inconsistent with the overarching principles and strategic objectives of the South Dublin County Development Plan 2022-2028, and, if granted, would set an undesirable precedent for similar developments, which, both individually and cumulatively, would be detrimental to the character and amenities of the area. As such, the proposed development would not align with the principles of proper planning and sustainable development of the area, and thus cannot be favourably considered by the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Report (28th August 2024)

- The report includes a detailed summary of the planning context at national, regional and local level.
- The report includes a summary of the 7 no. submissions made on the application (see below)
- The site has been subject to numerous applications to amend permitted development on site (P.A. Reg. Ref.:**SD09A/0055 / PL06S.235823**), which have restricted development within the site.
- The application is similar to a recently refused application (P.A. Reg. Ref.: **SD22A/0069** refers).
- The CDP is supportive of infill development. In assessing the proposal against the S.12.6.8 the Plan, the site constitutes a small infill site with the roof profile generally reflecting roof profile of properties in the wider area, albeit with an increased ridge level.
- It is recommended that full details regarding ground levels, materials and proposed boundary treatments should be requested by way of Additional Information.
- The demolition of the existing dwelling on site to accommodate infill development has been accepted under previous grants of permission on site.
- The separation distance of opposing first floor windows would exceed the minimum requirements of the Compact Guidelines, however the visual impact of the proposal is unclear due to limited detail provided.
- Concern remains with respect to proximity to existing residents within Whitechurch Stream, and potential impacts to residential amenity with respect to overshadowing, overlooking and visual overbearance.
- The report includes FI Items as raised by the Water Services Department with respect to the FRA as submitted with the application.
- The report includes the feedback as received from Uisce Éireann with respect to the application (see below).

- A minimum 10m riparian buffer is required to be maintained from the top of a riverbank (GI3 Objective 3 and Section 123.4.3 Riparian Corridors refers).
- A report from Public Realm and Parks Department section is noted, recommending that FI is requested.
- An Ecological Impact Assessment (EclA) is required.
- The report recommends that FI is requested with respect to the following:
 1. Submission of plans demonstrating all works to be undertaken by the OPW and the applicant as part of the current proposal, which form part of the Whitechurch Stream Flood Alleviation Scheme.
 2. Residential and Visual Amenity: Submission of, inter alia, contextual sections; daylight/sunlight assessment; suggested reduction in ridge level taking account of impact to No. 1 Whitechurch Stream; inclusion of obscure glazing; materials for bin storage and boundary treatments.
 3. Access, Transport and Parking: Sightline analysis; requirements for mobility impaired drivers and EV charging; provision of AutoTRAK analysis; confirmation of correspondence with OPW with respect replacement of the existing bridge.
 4. Drainage, Water Supply and Wastewater: a) submission of surface water attenuation calculations, revised surface water system including SuDS measures as underground tanks are not accepted; b) submission of report and drawings relating to the site's current flood risk. c) submission of proposed water supply and foul drainage layouts and COF letters from Uisce Éireann for same.
 5. Green Infrastructure: submission of a tree survey, landscaping plan, Green Infrastructure Plan, drainage scheme compliant with SDCC SUDS Design Guide, a Green Space Factor (GSF) calculation; an EclA and AA Screening Report.

3.2.2. Planning Report (28th March 2025)

- The report comprises detail of the response as received from the applicant with respect to the above noted FI items, with the following summary assessments:

1. The PA is satisfied, however notes that the applicant has not supplied a written confirmation from the OPW with respect to the timeline of works.
2. The PA is not satisfied with a description of heights and levels, in the absence of contextual section drawings as requested. The PA is satisfied with reduction in ridge height, and considers that the layout, orientation, separation distances substantially mitigate any potential significant adverse effects with respect to residential amenities. The local authority is satisfied with proposed use of obscured glazing; materials for dwellings and boundary treatments.
3. The Roads Dept. are satisfied with the response, having consulted with David Grant, SDCC (Resident Engineer); and recommended the inclusion of 2 no. conditions.
4. Water Services recommend that permission is refused as underground tanks are not accepted for surface water attenuation; it is unclear what SuDS measures are proposed; the attenuation calculations are unclear; no drawing has been submitted showing the surface water layout. With respect to flood risk, Water Services have no objection subject to condition, that precludes development taking place, until the Whitechurch Flood Alleviation Scheme has been completed. The proposal fails to comply with GI4 Objective 1 of the 2022-2028 CDP; permission should be refused on this basis. The response has failed to address the concerns as raised by Uisce Éireann, noting that this matter could be addressed by way of condition.
5. The applicant has failed to demonstrate compliance with CDP policies with respect GI, SuDS and landscape; noting that underground attenuation is not acceptable; and in the absence of drawings, it is unclear what SuDS measures are proposed on site. The applicant has not achieved the required GSF; the applicant has failed to submit a green infrastructure plan and the landscape plan shows little or no detail of development. The proposal fails to comply with GI4 Objective 1, GI5 Objective 4 and GI1 Objective 4 of the Plan, permission should be refused on this basis.

The proposal fails to adequately address or overcome the previous reasons for refusal cited under **SD22A/0069**, relating to on-site SuDS measures.

- The EclA and AA Screening Reports are based on surveys conducted in May and June 2019 are considered outdated and insufficient to form the basis of an accurate evaluation of the current ecological conditions of the subject site. Moreover, the Council does not consider it suitable that these matters could be addressed by way of condition.

3.2.3. Other Technical Reports

Roads Department (July 2024) FI required.

SDCC Environmental Health Officer Report (March 2025): No objection subject to condition. This follows an earlier report (**August 2024**) recommending request for FI relating to (i) noise and air assessment, and (ii) hours of construction.

SDCC Resident Engineer's Report (August 2024): The Whitechurch Stream Flood Alleviation as granted by the Board (ABP Ref: **JP06S.307746**) includes flood defences along the full frontage of the subject site; new vehicular access bridge into the site from Whitechurch Road. Construction commenced in February 2023 and is scheduled to be completed in Q1 2026 and will provide protection in a 1% AEP event to over 90 properties within the catchment including the subject site.

Water Services Planning Report: FI required.

3.3. Prescribed Bodies

Development Applications Unit (March 2025): Archaeology: during licensed archaeological monitoring, the possible remains of a millrace were identified as surviving within the footprint of the flood scheme. The millrace is recorded on historic mapping, and it was noted during the monitoring works that the millrace continued. It is possible that archaeological features/deposits may be disturbed during the course of groundworks, required for the proposed development. The unit therefore recommends the inclusion of conditions in the event of a grant of permission.

Uisce Éireann: (August 2024, March 2025): March 2025: The applicant has not obtained a Confirmation of Feasibility (COF) for the proposed development as previously requested on 28 August 2024. There is insufficient time for Uisce Éireann to request clarification on the further information submitted. Uisce Éireann would need to undertake a feasibility assessment to confirm whether the development can connect to a public water and waste water networks.

The Office of Public Works (August 2024) The OPW and SDCC will be constructing flood defence walls along the subject site and a new access bridge and removing the existing access bridge to the site. The Flood Risk Assessment (FRA) as submitted is consistent with the FRA undertaken for the Scheme and floor levels accord with levels as advised by the OPW. Flood defence works are being undertaken on the subject site, in agreement with the applicant, to the benefit of properties in the catchment of these works. The consultation with the applicant has been undertaken, on a joint pre-text that development would be constructed on this site, similar to as permitted under P.A. Reg. Ref.: **SD20A/0016** refers).

Inland Fisheries Ireland: IFI have been in regular contact with the OPW relating to the Whitechurch Stream Flood Alleviation Scheme, including the proposed crossing of the stream into the proposed development site. IFI are satisfied with the measures to protect the aquatic environment during the construction phase.

3.4. Third Party Observations

3.4.1. A total of 7 no. submissions were received on the application, the grounds of which can be summarised as follows:

- Excessive height and out of scale with properties in Willbrook Lawn.
- Application drawings are misleading regarding site levels; illustrating a downward slope towards the Capri site making the proposal appear lower; inaccurate separation distances and incorrect house numbering within Millbrook Lawn.
- Insufficient separation distances between dwellings.
- The removal and treatment of Japanese Knotweed should be undertaken to best practice.
- Future development of the rear attic is prohibited.
- No boundary detail or landscape plans submitted with the application.
- Inadequate reports submitted, with limited details of proposed new bridge.
- Request inclusion of opaque glazing to the rear.
- No shadow study or lighting impact assessment has been undertaken.

- No Traffic Impact Assessment, FRA, AA or EclA submitted with the application.

4.0 Planning History

4.1. Subject Site

4.1.1. **ABP Ref: JP06S.307746:** Planning Permission Granted in December 2020 for flood alleviation works along Whitechurch Stream between St. Enda's Park and its confluence to the Owenadoher River at Ballyboden Road. This is in the course of being implemented.

4.1.2. **P.A. Reg. Ref.: SD22A/0069:** Planning permission refused in March 2022 for the demolition of derelict house and construction of 4 no. two storey, semi-detached 3 bedroom dwellings; replacement of existing bridge; 1.2m flood defence walls; 8 car parking spaces; landscaping and associated site works. The reasons of refusal are summarised as follows:

1) Ecology and Water Management. (a) The proposed development would intrude inside the 10m riparian buffer strip. Owing to the size of the site, it is unlikely the development could fit without compromising either the watercourse or privacy of units to the rear and private amenity space of the proposed units. The proposed development is therefore in contravention of the Green Infrastructure and Water Management policies of the Development Plan (2016 – 2022). The proposal to replace a watercourse bank with a retaining wall is contrary to Policies G3 and IE2, Policy G6 and section 11.6.1 (ii) of the Development Plan. A setback is required as per the Greater Dublin Regional Code of Practice for Drainage Works. The development would therefore be a material contravention of the Development Plan.

(b) The proposed development does not feature sustainable drainage systems and diversion of surface water to the public sewer system is contrary to Policies IE 2, G5 and section 11.6.1 (iii) of the Plan.

2). Residential Amenity: The applicant has failed to demonstrate that the proposal would not seriously injure the residential character and amenities of the area. The Landscape Plan lacks sufficient detail.

- 4.1.3. **P.A. Reg. Ref.: SD21A/0077:** Planning permission refused in May 2021 for the change of house type of approved dwelling to 4 no. semi-detached, 4 bed dwellings; the main modification is a new attic level with dormer window to the front roof to create a three storey house type; all other approved works are unchanged including 8 car parking spaces and associated site works and landscaping. The grounds of refusal related to excessive height and bulk of the roof profile and materially contravention of a Condition limiting to 7.65m (P.A. Reg. Ref: **SD11B/0236** refers).
- 4.1.4. **P.A. Reg. Ref SD20A/0016:** Notification of Final Grant issued in August 2020 for a change of house type of the approved dwellings to 4 no. semi-detached, 3 bed dwellings; replacement of existing bridge and 1.2m flood defence walls, internal road and footpaths; 8 car parking spaces and associated site works and landscaping on previously granted site for 4 no. semi-detached, 2 bedroom with study dwellings and associated works under P.A. Reg. Ref :**SD09A/0055** and P.A. Reg. Ref.: **SD11B/0236**.
- 4.1.5. **P.A. Reg. Ref SD18A/0433:** Planning Permission refused in February 2019 for change of house type of the approved dwellings to 4 no. semi-detached, 3 bed dwellings and associated car parking for 8 cars, access bridge, road and footpath and modify existing bridge for a pedestrian entrance and associated site works and landscaping on a site with permission granted for 4 semi-detached, 2 bedroom with study dwellings and associated works under P.A. Reg. Ref : **SD09A/0055** and P.A. Reg. Ref :**SD11B/0236**.
- 4.1.6. The grounds of refusal related to encroachment of the Whitechurch Stream; failure to provide design of proposed bridge and outfall, contrary to Policy G3, G3 Objective 2 and G3 Objective 5 of the Development Plan; insufficient details to demonstrate compliance with the Greater Dublin Regional Code of Practice for Drainage Works or Irish Water Standard Details and the Building Regulations 2010 Technical Guidance Document B; material contravention of Infrastructure and Environmental Quality section of the Development Plan, relating to proximity to Natura 2000 sites in Dublin Bay; failure to submit landscape, arboricultural and ecological documentation.
- 4.1.7. **SD13B/0219 / PL06S.242662:** Permission refused by the local authority and subsequently by An Bord Pleanála in February 2014 for modifications to **SD11B/0236** for construction of 4 no. 2 storey semi-detached houses with 8 parking

spaces with new bridge to Whitechurch Road and associated landscaping and drainage works; change of roof type from gable end to pitched roof and increase in height by 775mm to create a second storey with 1 no. window to front elevation and 1 no. Velux to front and side roof and 3 no. high level Velux rooflights to rear roof; minor internal alterations to include 2 no. windows to side gable at ground floor and associated works. The application was refused on the grounds of excessive height and bulk, and material contravention of a condition (P.A. Reg. Ref.: **SD11B/0236**) limiting the height to 7.65m (**SD09A/0055; PL06S.235823**).

- 4.1.8. **SD12B/0140**: Permission refused in July 2012 for modifications to SD11B/0236 for a change of roof type and increase in height by 775mm to create a second storey with 1 no. window to front elevation and 1 no. Velux to front & side roof and 3 no. high level Velux rooflights to rear roof; minor internal alterations. Permission was refused as raising the ridge heights would materially contravene Condition 2 of P.A. Reg. Ref.: **SD11B/0236**.
- 4.1.9. **SD11B/0236**: Notification of Final Grant issued in October 2012 for modifications to permitted development (**SD09A/0055 PL06S.235823**), including increase in overall height by 775mm to create a second storey with 2 no. Velux windows to front roof, increased width of dwellings by 500mm, modification to front elevation fenestration and revisions to internal layout of first floor plan, increasing front bedroom by 2.2m².
- 4.1.10. **SD10A/0191**: Permission refused in August 2010 for modifications to permitted development (**SD09A/0055; PL06S.235823**) including increase overall height by 775mm to create a second storey with dormer window to front roof, increased width of dwellings by 500mm and modifications to front elevation fenestration and revisions to internal layout of first floor plan which increases front bedroom by 2.2m². The grounds of refusal relate to a material contravention of development plan objective relating to proximity to Natura 2000 sites; inadequate information relating to proposed services, entrance bridge, retaining walls, flood risk, biodiversity, landscaping proposals; and excessive height and scale out of character with the wider area.
- 4.1.11. **P.A. Reg. Ref.: SD09A0055; ABP Ref: PL06S.235823**: Permission granted by An Bord Pleanála in May 2010 for the demolition of an existing bungalow and bridge

and construction of 4 no. two storey semi-detached houses with 8 no. parking spaces with new bridge to Whitechurch Road and associated works.

5.0 Policy Context

5.1. Housing for All 2021

- 5.1.1. Specifies four pillars by which universal access to quality housing options is to be achieved. Of relevance to the proposed development is the achievement of Pillar 1, increasing new housing supply.

5.2. Project Ireland 2040 National Planning Framework, First Revision April 2025

- 5.2.1. The first National Strategic Outcome expected of the National Planning Framework is compact growth. The First Revision was updated to include, inter alia, additional population growth in excess of earlier forecasts for the 2018-2040 period. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. Relevant provisions of the NPF include the following:

National Policy Objective 7 - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 8 - Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth

National Policy Objective 45 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), including the associated Urban Design Manual (2009)

- 5.3.1. The Guidelines were designed to assist planning authorities, developers, architects and designers in delivering quality residential development Delivering Homes. The accompanying urban design manual sets 12 Design criteria that should be used to evaluate residential development, relating to context, connections, efficiency

inclusivity, variety, efficiency, distinctiveness, assessing the layout, public realm, adaptability, privacy and amenity, parking and detailed design.

- 5.3.2. As noted below, these guidelines have been replaced by the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024.

5.4. Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024

- 5.4.1. The Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024 (the Compact Settlement Guidelines) set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. The Guidelines replace the Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities 2009. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

- 5.4.2. Development standards for housing are set out in Chapter 5, including SPPR 1 in relation to separation distances (16m between opposing windows serving habitable rooms above ground floor level), SPPR 2 in relation to private open space (3 bed 40 m²), SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations) and SPPR 4 in relation to cycle parking and storage.

5.5. Sustaining Communities and accompanying best Practice Guidelines – Quality Housing for Sustainable Communities, 2007

- 5.5.1. The purpose of these Guidelines is to assist in achieving the objectives for delivering homes, sustaining communities contained in the Government statement on housing policy which focuses on creating sustainable communities that are socially inclusive.
- 5.5.2. Development standards for housing are set out in Table 5.1 of the document. These include target overall gross floor area (92m²); min. space requirements for main living room (13m²), aggregate living area (34m²), aggregate bedroom area (32m²), internal storage (5m²) for 3 bed/5 person 2 storey dwellings.

5.6. South Dublin County Development Plan 2022-2028

5.7. Land Use Zoning

- 5.7.1. The site is subject to land use zoning RES –, with the objective “to protect and / or improve residential amenity”.

5.1. **Development Plan – Quality of Residential Development**

- 5.1.1. The CDP includes the following relevant policies and objectives:

Policy H10: Internal Residential Accommodation: Ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long-term needs of a variety of household types and sizes.

Policy H11: Privacy and Security: Promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

Policy H11 Objective 3: To ensure that private open spaces, where it consists of gardens, are enclosed within perimeter blocks behind the building line and that they are subdivided by suitably robust boundary treatments of a sufficient height and composition to provide adequate privacy and security. In limited circumstances, some discretion may be provided for where the configuration of the space can provide for private and secure space, to a high quality, elsewhere on the site than behind the building line.

H2 Objective 3: To promote and facilitate the development of infill schemes throughout the County where it has been identified that such schemes will contribute towards the enhancement of communities within the County, working towards an even spread of such schemes across all LEAs, whilst ensuring that sufficient and appropriate public spaces and amenities are preserved in existing residential estates, subject to the protection of residential amenity.

Policy H7: Residential Design and Layout Promote high quality design and layout in new residential developments to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.

5.2. **Development Plan – Green Infrastructure**

- 5.2.1. The CDP includes the following relevant policies and objectives:

GI1 Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial and mixed use through the explicit identification

of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage and enhance GI resources providing links to local and countywide GI networks.

GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) using surface water and nature-based solutions, and to ensure that SuDS is integrated into all new developments in the County, designed in accordance with South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.

GI5 Objective 4: To implement the Green Space Factor (GSF) for all qualifying development comprising 2 or more residential units and any development with a floor area in excess of 500 sq m. Developers will be required to demonstrate how they can achieve a minimum Green Space Factor (GSF) scoring requirement based on best international standards and the unique features of the County's GI network. Compliance will be demonstrated through the submission of a Green Space Factor (GSF) Worksheet (see Chapter 12: Implementation and Monitoring, Section 12.4.2).

5.3. **Development Plan – Natural, Cultural and Built Heritage**

5.3.1. The CDP includes the following relevant policies and objectives:

Policy NCBH10: Invasive Species Protect against and prevent the introduction and spread of invasive species within the County and require landowners and developers to adhere to best practice guidance in relation to the control of invasive species.

NCBH10 Objective 1: To ensure that development proposals do not lead to the spread or introduction of invasive species. If developments are proposed on sites where invasive species are or were previously present, applicants should submit a control and management programme with measures to prevent, control and / or eradicate the particular invasive species as part of the planning process and to comply with the provisions of the European Communities Birds and Habitats Regulations 2011 (S.I. 477 / 2011).

5.4. **Development Plan – Residential Consolidation in Urban Areas**

5.4.1. The CDP includes the following relevant policies and objectives:

Policy H13: Residential Consolidation: Promote and support residential consolidation and sustainable intensification at appropriate locations, to support

ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

H13 Objective 2: To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 12: Implementation and Monitoring.

H13 Objective 5: To ensure that new development in established areas does not unduly impact on the amenities or character of an area.

5.5. Development Plan – Infill Sites

5.5.1. Development on Infill Sites will be assessed by a range of policies including the following:

- Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual, noting this document has been superseded by the Sustainable Communities Guidelines 2024.
- Significant site features, such as boundary treatments, pillars, gateways, and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street;
- Subject to appropriate safeguards to protect residential amenity, reduced public open space and car parking standards may be considered for infill development, dwelling sub-division, or where the development is intended for a specific group such as older people or students. Public open space provision will be examined in the context of the quality and quantum of private open space and the proximity of a public park. Courtyard type development for independent living in relation to housing for older people is promoted at appropriate locations. Car parking will be examined in the context of public transport provision and the proximity of services and facilities, such as shops;
- All residential consolidation proposals shall be guided by the quantitative performance approaches and recommendations under the 'Site Layout Planning for Daylight and Sunlight' (2nd edition): A Guidelines to Good Practice (BRE

2011) and BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ and / or any updated guidance.

- It should be ensured that residential amenity is not adversely impacted as a result of the proposed development.

5.6. Development Plan – Residential Standards

- 5.6.1. The section of the Plan includes design standards relating to Residential Consolidation relating to infill sites, backland development, dwelling sub-division and upper floors.
- 5.6.2. Section 12.6.7 sets out that all new housing must comply with or exceed the minimum floor area standards contained in the Quality Housing for Sustainable Communities Guidelines, DEHLG (2007), or as may be superseded, by housing standards as set in this section of the Development Plan.
- 5.6.3. The Plan includes a target of 92m² GFA and 60m² of private open space for 3 bed houses. The Plan also specifies a target of 1.5 car parking spaces for 3 bed houses within Zone 2.

5.7. Climate Action Plans 2024 and 2025

- 5.7.1. The Acts, to be read in conjunction outline measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. They include budgets appropriate across a range of sectors. Of relevance to residential development is the built environment sector. The Commission must be consistent with the Plan in its decision making.

5.8. National Biodiversity Action Plan (NBAP) 2023-2030

- 5.8.1. The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss.
- 5.8.2. Section 59B (1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Commission, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Commission. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats

and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

5.9. Natural Heritage Designations

- 5.9.1. There are no European sites within the subject site.
- 5.9.2. The closest European site to the subject site is the South Dublin Bay SAC (Site Code: 000210), located c.6.25km to the north-east of the site.
- 5.9.3. The closest designated site is the Dodder Valley pNHA (Site Code: 000991), c.2.9km to the east of the site.

5.10. EIA Screening

- 5.10.1. The proposed development has been subject to preliminary examination for environmental impact assessment (Form 1 and Form 2 in Appendix 1 of this report refer). 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.

5.11. Water Impact Assessment

- 5.11.1. 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. (Appendix 3 refers).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of the first party appeal may be summarised as follows:
 - The site has been subject to a number of permissions which the applicant could have previously developed, noting the full planning history of the site as detailed in S.4 above.

- The site is a pivotal part of the Whitechurch Stream Alleviation Scheme which includes the replacement of the existing bridge over the Whitechurch Stream into the subject site.
- The site is currently occupied by the OPW who are carrying out a range of flood defence works. The works constitute a significant flood defence gain for the site and wider area.
- The works are due for completion in June 2025. The Board is requested to approve the proposed development as the works are soon to be completed.
- The PA have accepted that the provision of public open space is not viable, nor is it necessary to require a contribution in lieu.
- The scheme includes a series of small areas of landscaping throughout including a bioretention rain garden area.
- On completion of works on site by the OPW, the applicant intends to submit an updated landscape plan to the PA for their agreement.
- The drainage scheme was designed to accord with the SDCC Sustainable Drainage Explanatory, Design and Evaluation Guide.
- As an infill site there are limited sustainable urban drainage solutions which can be incorporated into this site.
- Notwithstanding the scheme includes water butts to each rear garden, permeable paving, SuDS Rain Garden/ Bioretention Areas, new native planting, the use of storm tech surface water system.
- The proposed development meets GI4 Objective 1 through the delivery of sustainable surface water management whilst enhancing site biodiversity, visual amenity, and contributing to the overall green infrastructure of the area.
- GSF is a biased measure for small and restricted infill sites and does not take into account proximity to public parks. The floor area is below the 500m² minimum cap and the GSF score of 0.5 meets the minimum standard of the Plan.
- Due to site works, it was not possible to provide an updated tree survey.

- The appeal is accompanied by an updated landscape plan. It is the intention to prepare a landscape plan for the construction stage also.
- With respect to GI Plan, additional trees are proposed to connect to the wider environment, updated landscape plan including SuDS interventions including permeable paving.
- The site has the capacity to absorb the subject infill development, without adversely impacting the residential amenity of the wider area.

6.2. Planning Authority Response

- 6.2.1. The planning authority note that the reasoning for the Council's decision is comprehensively addressed in the Chief Executives Executive Order dated 25th March 2025, dealing with the issues raised.

6.3. Observations

- 6.3.1. A total of 3 no. observations have received on this appeal, the grounds of which are summarised as follows:
- Height of the houses significantly higher than the existing properties in the vicinity of the site, out of scale and character of the wider area.
 - Permission has been refused for excessive height for development at heights lower than the subject proposal (SD21A/0077, SD13B/0219; ABP PL06F.24662 refer).
 - The drainage measures proposed are inadequate to effectively manage surface water run-off, especially during rainfall events.
 - Uisce Éireann have had insufficient time to submit a report with respect to wastewater management from the site.
 - Concerns regarding privacy and lighting to abutting properties, noting they have not taken account of extensions to the rear of these properties.
 - Misleading drawings, illegible landscape plan.
 - No evidence the newly proposed rain garden has been designed to best practice.
 - Lack of information regarding privacy screening measures to the rear.

- Height and scale results in loss of light, negatively impacting residential amenity.
- The application was not accompanied by a sunlight/daylight assessment.

6.4. Further Responses

6.4.1. None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the report of the local authority, having inspected the site and having regard to the relevant local and national policies and guidance, I consider the substantive issues in this appeal are as follows:

- Principle of Development
- Layout and Design
- Residential and Visual Amenity
- Landscape Design
- Traffic and Transportation
- Site Services
- Flood Risk
- Biodiversity

7.2. Principle of Development

7.2.1. The proposed development seeks permission for the demolition of an existing dwelling, and provision of 4 no. residential units and all ancillary works. The site is located on lands which are subject to 'Existing Residential (RES)' under the Development Plan, the objective of which is "to protect and/ or improve residential amenity". Residential use is a use which is Permitted in Principle under this zoning objective.

- 7.2.2. The Development Plan is supportive of infill development (Section 12.6.8 refers), subject to the provision of residential amenity for prospective residents and protection of same for the established community.
- 7.2.3. The Commission is referred to a previous permission for a similar scope of works on the subject site (Reg. Ref.: **SD09A/0055 / PL06S.2358230**).
- 7.2.4. Having regard to the land use zoning objective, planning history on site, I am satisfied that the principle of providing a residential development is acceptable at this location, subject to assessment with respect to layout and design, residential and visual amenity, access, site services, flood risk and biodiversity.

7.3. Layout and Design

- 7.3.1. The proposed development will be accessed from Whitechurch Road via the forthcoming bridge over the Whitechurch Stream to a central area with 5 no. car parking spaces to the rear of the site, with two storey semi-detached properties to the north and south of this central access area. The proposed terraces of dwellings are oriented on a north-south basis reflecting the pattern of development within Willbrook Lawn and Whitechurch Stream estates.
- 7.3.2. I consider that the layout of this small site, including the location and arrangement of car parking to be acceptable, integrating successfully within the subject site and wider environs.

7.4. Residential and Visual Amenity

- 7.4.1. From a review of the drawings, I note that the proposed units accord with the minimum housing standards as set out in the 'Quality Housing for Sustainable Communities – Best Practice Guidelines' (2007). The units would also exceed the minimum separation distances within the Compact Settlement Guidelines (2024).
- 7.4.2. From a review of the file, I note that the proposed units would all have an upper ridge height of +65.77m OD, marginally higher than dwellings within Willbrook Lawn (+65.77m OD) and closest unit within Whitechurch Stream (+64.8m OD), based on a finished floor level of +57.7m OD.
- 7.4.3. As discussed below, in order to meet recommended flood levels, it is necessary to raise the finished floor levels of the proposed units to no less than +58.1m OD.

- 7.4.4. From a review of elevations as submitted at FI stage, I note that the floor to ceiling heights of the proposal would exceed minimum floor to ceiling heights of 2.4m.
- 7.4.5. As such, in the event the Commission decide to grant permission, each floor could be reduced by c.0.2m per floor, with the overall ridge height not exceeding +65.77m OD, thereby maintaining the reduced heights in this instance.
- 7.4.6. The application was not accompanied by a sunlight and daylight analysis. Notwithstanding, taking account of the layout, height of proposed dwellings and generous separation distances, in my opinion, the proposed development would not give rise to significant adverse impacts by way of overshadowing, of adjoining residential properties within Willbrook Lawn and Whitechurch Stream (estate).
- 7.4.7. The proposed units include obscured/opaque glazing on windows to the rear and on gable elevations, enhancing protection of residential amenity for prospective and existing residences.
- 7.4.8. The applicant has included a schedule of finishes for the proposed residences which includes the use of rendered concrete, grey concrete roof tiles and red brick. It is not clear whether it is the intention of the applicant to use red brick within these elevations. I note the boundary walls to the scheme will be completed with a 'Carlow' natural stone. I consider that the introduction of an element of this stone within the elevations of the proposed dwellings would enhance the visual amenities of the proposed units and the wider area. As such, in the event the Commission decides to grant permission, I recommend the inclusion of a condition to this effect.
- 7.4.9. From a review of the file in full and site visit I satisfied that the proposed development accords with the relevant provisions of section 12.6.8 of the Development Plan relating to infill development.
- 7.4.10. This includes an assessment with respect to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), including the associated Urban Design Manual (2009), as referenced as a design assessment tool for infill development in the Development Plan.

- 7.4.11. As noted above, these Guidelines have been revoked and replaced by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- 7.4.12. Having regard to the above, it is considered that, subject to condition, the proposed development would integrate successfully with the established visual context of the site and environs, enhancing the residential and visual amenity of the subject site, for the benefit of the wider area.

7.5. Landscape Design

- 7.5.1. The first party appeal was accompanied by updated Landscape Plan, which includes a series of SuDS measures, including new native planting and permeable paving.
- 7.5.2. The subject site does not include public open space, as supported in the Development Plan with respect to the development of small infill residential sites, in close proximity to public parks. I therefore consider this to be acceptable in this instance. I also note that the size of the rear gardens exceed the private amenity standards as set out within the Compact Settlement Guidelines (2024).

Landscape Plan

- 7.5.3. From a review of this drawing, I am satisfied that the layout is consistent with the plans and particulars of the application. However I concur with the local authority that this landscape plan is excessively light in detail and in the event the Commission decide to grant permission, I recommend that a fully detailed landscape plan should be agreed with the County Council, prior to the commencement of development.

Green Space Factor

- 7.5.4. The Development Plan seeks to implement a Green Space Factor (GSF) for all qualifying developments, that is those “comprising two or more residential units and any development with a floor area in excess of 500sqm.” Developers are required to demonstrate how they can achieve minimum standards based on international best practice in the context of the SDCC Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.
- 7.5.5. The Plan sets out that the GSF prioritises the retention of existing GI features within a subject site, in order to support the protection of the County’s existing GI network. I note that GSF relates to the incorporation of a range of Green Infrastructure

measures within development proposal, including SuDS features, public open space, taking account of the respective zoning objective of the site.

- 7.5.6. The applicant in this context, argues that the proposed development at 454m² is not a qualifying project and that this should not apply to small infill sites. I note that the limit relates to 4 no. houses and development which exceeds 500m², and as such, would qualify on that basis. The applicant argues that this provision should not apply, given the lack of public open space within the scheme. I note that there is no dispensation to exclude a site on this basis.
- 7.5.7. The applicant argues that the GSF does not take account of proximity of the site to public parks (St. Enda's and Marlay Park (both within 1km of the subject site). I note that there is no dispensation in the Development Plan to this effect.
- 7.5.8. The Development Plan sets out that "where site-specific constraints do not allow for adequate landscaping features in line with minimum requirements (for example, for infill development or certain brownfield sites) a developer will be permitted to provide alternative GI interventions" or contributions in lieu. The Plan sets out a list of alternate GI interventions, including the incorporation of SuDS measures and native tree planting; as provided within the landscape strategy for the site, as discussed above.
- 7.5.9. As such, I consider the provision of alternate GI interventions to be acceptable, having regard to the small infill nature of the site, which includes the Whitechurch Stream, and flood alleviation works providing a replacement bridge to serve this site.
- 7.5.10. I note that the appeal includes a GSF calculation sheet, as submitted to the local authority in the first instance. In my opinion, it is difficult to decipher how the scores for the trees have been achieved and concur with the local authority; that the landscape plan as submitted is not sufficiently detailed to understand these measures, and that the Worksheet should have been accompanied by a GI Landscape Plan.
- 7.5.11. Notwithstanding, as noted above, I am satisfied that the GSF should not apply, having regard to the inclusion of alternative GI measures on a small infill residential site, as supported in the Development Plan. (S12.6.8 refers).

Invasive Species

- 7.5.12. The report notes the presence of Japanese Knotweed (an invasive species) within the footprint of the site.
- 7.5.13. The application is accompanied by a Japanese Knotweed Management Plan, based on survey undertaken in August 2018. The report notes that Japanese Knotweed was recorded, at the entrance to the property and growing out of a spoil heap and along the boundary wall to the river. The report includes a recommended programme of for the removal of this species in accordance with best practice (Knotweed Code of Practice, 2013).
- 7.5.14. As noted above, the flood defence works (JP06S.307746) includes the full removal and management of Japanese Knotweed on the subject site. As such, it may be the case that the management of Japanese Knotweed would not necessarily form part of this application, and if this is the case, an updated baseline assessment including survey which takes account of the flood defence works, should, in my opinion, form part of a future application, having regard to Policy NCBH10 and CBH10 Objective 1 of the Development Plan.

Tree Survey

- 7.5.15. The application was accompanied by a Tree Survey and Arboricultural Impact Statement, completed in June 2019. The Assessment identifies 6 no. trees on site grouped within the south-eastern corner of the site, including 3 no. Category C Sycamore and 3 no. Category U trees. The report recommends the removal of Category U trees, with the remaining trees to be removed to facilitate the development and a wayleave for the Council for the maintenance of the stream.
- 7.5.16. Further to the site visit, access to this section of this site was somewhat limited, due to the treatment of Japanese Knotweed by the OPW as part of the flood defence works. Notwithstanding it appears that the site has been mostly cleared of all trees at this stage.
- 7.5.17. The first party appeal notes that it is not possible to complete an updated Tree Survey due to ongoing site works, which I consider reasonable.
- 7.5.18. Notwithstanding, in the event the Commission decide to grant permission for the proposed development, I recommend the inclusion of condition requiring the

applicant to provide a plan showing trees to be retained, on completion of the flood defence works on the subject site (ABP Ref.:**JP06S.307746**), for agreement with the planning authority, prior to commencement of development.

7.6. Access and Car Parking

- 7.6.1. The application is not accompanied by a Traffic Impact Assessment or Report.
- 7.6.2. The subject site is served by an existing access to the site. The proposed development will be served by a future bridged access to the site, which at the time of site visit was under construction by the OPW on behalf of SDCC as part of the Whitechurch Stream Flood Alleviation Scheme. In this context, I refer the Commission to sightline drawings as submitted as part of the Further Information response to the Council. In this context, I am satisfied that the access position and sightlines are sufficiently clear, indicating 45m to the north and south of the access, appropriate for the 50km/hr speed limit applicable to this section of Whitechurch Road. Further to a site visit, I am also satisfied that the sightlines can be achieved on exiting the site.
- 7.6.3. The proposed development includes the provision of 5 no. car parking spaces located to the northern boundary of the site, including 1 no. space for disabled users. All of spaces will be able to function as EV spaces. This car parking provision is noted to meet SPPR 2 of the Compact Settlement Guidelines 2024, providing 1.5 spaces per dwelling in Accessible Locations.
- 7.6.4. I also concur with the recommendation of the Roads Department, to limit the height of boundary walls and pillars to a maximum of 1.2m; and specifying that any gates to open inwards and not over the public domain. As such, in the event that the Commission decide to grant permission, I recommend the inclusion of conditions to this effect.
- 7.6.5. Having regard to the above, I am satisfied that the proposed development would not give rise to significant adverse impacts with respect to traffic and transportation.

7.7. Site Services

Surface Water Drainage

- 7.7.1. The proposed development includes a direct connection from adjoining residence (No. 31 Willbrook Lawn), connecting through the rear gardens and car parking area

of the proposed development before connecting to the existing wastewater network on Whitechurch Road. The proposal includes 6 no. underground attenuation tanks, centrally located within the site, in addition to the use of water butts within the rear gardens.

- 7.7.2. The Planning Authority considers the use of underground tanks as unacceptable, and contrary to GI4 Objective 1 of the Development Plan, which seeks to limit surface run off from new developments through the use of SuDS using surface water and nature-based solutions and to ensure that SuDS is integrated into all new developments in the county.
- 7.7.3. In this context, the applicant, as part of the first party appeal, has sought to increase the range of SuDS measures on the subject site, including new native hedgerow, bio-retention rain garden areas, permeable paving with SuDS Tree Planting fronting to Whitechurch Road. I note that this Landscape Plan does not include water butts as presented on the Drainage Layout as submitted with the application in the first instance.
- 7.7.4. In this context, the subject site constitutes a small infill site, which accommodates a stream along the eastern side of the site; to be served by a permitted replacement bridged access to this site. As noted above, the proposal includes a range of SuDS measures. In conclusion, I consider the use of underground attenuation tanks to be acceptable in this instance.

Wastewater and Water Supply

- 7.7.5. The applicant has advised that the existing dwelling on site was connected to wastewater and water supply networks located within Whitechurch Road. The applicant proposes to provide wastewater and water supply connections from the proposed dwellings to this infrastructure, as per the Drainage Layout as submitted with the application.
- 7.7.6. The application was not accompanied by Confirmation of Feasibility (COF) letters as would normally be the case for this type of residential application. Uisce Éireann state that they would need to undertake feasibility assessments to confirm whether the development could connect to the wastewater network and public water supply.

7.7.7. In this context, I am satisfied, having regard to the residential building on site, that the proposed development can be serviced. As such, in the event the Commission decide to grant permission, I recommend the inclusion of a condition; that the applicant enter into a Connection Agreement with Uisce Éireann, to provide for any service connection(s) to public water supply and/wastewater collection network, and adhere to the standards and conditions in that agreement.

7.8. Flood Risk

7.8.1. The application was accompanied by a Flood Risk Assessment (FRA) (dated 2024).

7.8.2. The report notes that a site-specific flood risk assessment was undertaken as part of a planning application for permitted residential development at the subject site (P.A. Reg. Ref.: **SD11B/0236** refers). This assessment identified the primary flood risks to be the Whitechurch Stream and Owenadoher Stream. Detailed hydrological and hydraulic analysis was undertaken of these flood risk sources. The report concluded that raising finished floor levels to above predicted flood levels would adequately protect the units from flooding. I note that finished floor levels (FFLs) within this application were at +57.7m OD.

7.8.3. The FRA includes reference to the flood defence works to the Whitechurch Stream (**JP06S.307746**) with the objective to protect against a one in 100-year flood events (1% AEP flood event); including a replacement bridge and defence walls to Whitechurch Stream. I note that at the time of site visit, the flood defence walls to be largely complete and the temporary replacement bridge in place.

7.8.4. As noted within the report, CFRAM mapping confirms there is no predicted flooding at the subject property for all events. The assessment was based on a topographical survey which confirms that the Whitechurch Stream is c.2m below ground level.

7.8.5. As confirmed on the OPW flood maps, there are no recorded flood events on the subject site noting Hurricane Charlie (1986, 2000 and 2002) causing significant flooding of the Dodder catchment at this time. Flood levels at the site, historically have been dictated by the Whitechurch channel and downstream bridge and culvert restrictions.

7.8.6. Having reviewed the document, I note and concur with the following conclusions:

- The risk of coastal flooding is very low.

- The site is slightly higher than surrounding areas and as a result, the risk of pluvial flooding is low.
- The site /dwelling is served by drainage infrastructure, as well as connections to foul and storm networks and as a result the risk of flooding from the site is low.
- The site has no recorded history of groundwater flooding with no visible evidence to suggest groundwater flooding would be an issue, and as such the risk of groundwater flooding is low.

- 7.8.7. With respect to fluvial flooding, the OPW had advised that flood levels need to be raised to adequately allow for future flood events and the bridge over the Whitechurch Stream to be replaced. On this basis the report recommends that proposed FFLs should be at +58.1m OD. However, the final concluding section states these should be at +57.7m OD as illustrated on the application drawings.
- 7.8.8. In this context, the submission as received from the OPW (August 2024) notes that the proposed levels would be in line with “OPW advised levels”. However, the submission does not specify what these levels are.
- 7.8.9. As such, from a review of this FRA, in my opinion, the conclusion should have recommended a minimum level of +58.1m OD, to take account of fluvial flood risk and the requirement to increase levels from those at +57.7mOD as per the relevant permission (P.A. Reg. Ref.:**SD11B/0236** refers).
- 7.8.10. The Assessment concludes that the risk of pluvial flooding associated with the proposed development to be low to moderate. Subject to condition, I concur with this conclusion.
- 7.8.11. Therefore, in the event the Commission decide to grant permission, I recommend the inclusion of a condition, requiring the FFLs of the proposed units to be no less than +58.1m OD. As addressed above, I also recommend the inclusion a corresponding reduction in floor-to-floor heights of these units, to ensure no material change to the height of dwellings as permitted.
- 7.8.12. I also concur with the local authority’s suggestion; precluding the commencement of development until the completion of OPW flood alleviation works at the subject site.

7.9. Biodiversity

- 7.9.1. The application was accompanied by An Ecological Impact Assessment (EclA), undertaken in July 2019, and incomplete, missing pages 12, 16, 18 and 20). The local authority considered that a more up to date assessment should be completed, and I concur with the Council in this regard. The full document has not been submitted as part of the first party appeal, notwithstanding it's centrality to this case.
- 7.9.2. A bat survey was undertaken, however parts of this survey may be missing. The results of the bat survey concluded that bat activity to be relatively low, comprising only two species: Leisler's bats and Common pipistrelles. There was no indication that any bats emerged from the derelict dwelling or that a maternity roost is in place.
- 7.9.3. The report notes that all foul water will be discharged to Ringsend Wastewater Treatment Plant, before discharging to Dublin Bay, and that as a result, the foul water treatment during operational phase would not result in any adverse impacts upon receiving waters within Dublin Bay. The report also concludes that there is no risk of any other ecological impacts during the operational phase of the proposed development.
- 7.9.4. The EclA considers that the site is within an established suburban area, comprising a largely unvegetated dwelling and driveway, of negligible ecological value. The stream is defined as a lowland watercourse habitat of local value, due to it's semi-natural state and importance as an ecological corridor. The former garden is defined as a dry meadow habitat and at the time of writing was significantly overgrown.
- 7.9.5. The EclA concludes that the important ecological features on the proposed site to relate to the watercourse, Japanese Knotweed and birds; and whilst trees and hedgerows would be of negligible value, they would provide habitat for birds and are therefore considered to be important ecological features.
- 7.9.6. The report appears to be missing a section relating to Treelines/Hedgerows (as identified on Table 3 of this document). I note from my site visit, this area was fenced off, and was therefore, difficult to assess the full potential impact of the proposal in this regard.
- 7.9.7. As such, I consider that there is insufficient information submitted to determine the full ecological impacts of the proposed development, including an up-to-date and

complete EclA, taking account of the works as completed by the OPW on site, and I recommend that permission is refused on that basis. I note that this is a new issue, in the context of this appeal.

- 7.9.8. The Commission may request the applicant to provide the completed EclA. However, this document was prepared before the completion by the OPW of the flood defence works, and as such, may not reflect what's currently on site. The Commission may want to request the applicant to submit an updated version, however these works may not be completed until later this year. Therefore, I do not consider that a revised submission could provide accurate and therefore relevant baseline in order to assess impacts on biodiversity of the site.

8.0 AA Screening

- 8.1. 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 S177U of the Planning and Development Act 2000 as amended.
- 8.2. The application was accompanied by a Screening for Appropriate Assessment prepared by NM Ecology, based on surveys undertaken in May and June 2019. The report is incomplete (ending on Page 8).
- 8.3. The Planning Authority refused permission on the basis that the assessments are outdated and insufficient, to provide an accurate evaluation of the current ecological conditions of the subject site.
- 8.4. In this context, I have completed a Stage 1 AA Screening of the proposed development as contained within (Appendix 2 refers) of this document, which concludes as follows:

Having considered the nature, scale and location of the project, the QI/SCI of South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC and North Bull Island SPA, I am satisfied that it can be eliminated from assessment further having regard to:

- The significant distance between the project and closest European sites and dilution effect arising;
- The location of the site within an established urban area.

I conclude that 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 or 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

- 9.1. I recommend that planning permission is refused for the reasons and considerations as set out below.

10.0 Reasons and Consideration

The Commission is not satisfied, having regard to the current flood relief works taking place on site and incomplete documentation submitted with the application, that the impacts on biodiversity have been adequately addressed. The proposed development would therefore be contrary to proper planning and sustainable development.

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.

Aoife McCarthy
Planning Inspector

23rd July 2025

Form 1 - EIA Pre-Screening

Case Reference	322344-25
Proposed Development Summary	Demolition of house and construction of 4 houses. Flood defence works scheduled under ABP-307746-20
Development Address	'Capri', Whitechurch Road, Rathfarnham, Dublin 14
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - 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.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

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

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)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	322344-25
Proposed Development Summary	Demolition of house and construction of 4 houses. Flood defence works scheduled under ABP-307746-20
Development Address	Capri, Whitechurch Road, Rathfarnham, Dublin 14
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).	Proposed development of a small site within an established suburban area. The proposal includes the demolition of an existing dwelling, and replacement with 4 no. 2 storey semi-detached houses, within an established urban site. The proposed units are consistent with adjoining residential estates. The development will have access connections to water supply and waste water disposal, subject to agreement, with Uisce Eireann. There will be a marginal increase in loading as a result. Disposal of storm water to proposed attenuation tanks is not likely to result in significant pollution, details of which are subject to agreement with Uisce Eireann. The proposed development will not result in the production of significant waste, emissions, or pollutants. This is a relatively small development in this urban context. There is no real likelihood of significant cumulative effects with other permitted or related developments such as the concurrent case within the same housing development subject to compliance with conditions.
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,	The site is in a built-up area, on an infill urban site. A watercourse extends along the eastern boundary of the site, with an extended hydrological connection to a series of Natura 2000 sites within Dublin Bay. An AA Screening exercise has been undertaken which has concluded that the proposed development does not have the potential to have significant impacts on any European sites. The site is currently subject to flood defence works as carried out by the OPW, improving flood risk at the site, due for completion by Q1 2026.

cultural or archaeological significance).	
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).	The site is currently subject to flood defence works as carried out by the OPW, improving flood risk at the site, due for completion by Q1 2026, improving flood risk at the subject site. The proposed development would be subject to agreements with Uisce Eireann respect to water supply, wastewater and surface water drainage, through the planning process. As such, I do not consider these to be of a significant degree to warrant an EIA.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA <i>[Delete if not relevant]</i>
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 2: Stage 1 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 S177U of the Planning and Development Act 2000 as amended.

The proposed development includes the demolition of a dwelling and construction of 4 no. houses, landscaping, new boundaries and all associated works. Flood defence works are scheduled as part of the Whitechurch Stream Flood Alleviation Scheme (JP06S.307746).

The site of the proposed development is not located within the boundaries of a European site. The proposed replacement system is not directly connected with or necessary to the management of any European site.

The closest European site to the subject site is the South Dublin Bay SAC (Site Code: 000210), located c.6.25km to the north-east.

As noted by the applicant, the Whitechurch Stream / Kilmashogue Stream extends along the eastern boundary of the site flowing from south to north, connecting to the Dodder River and the River Liffey at Grand Canal Dock, before discharging to Dublin Bay, constituting a hydrological link between the site and Dublin Bay, the location of a series of Natura 2000 sites.

Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivity of receptors, I consider European Sites as scheduled within Table 1 to constitute the relevant Zone of Influence in this case.

Potential likely significant impacts that could arise are:

- Release of sediment and pollutants to surface and ground water during construction and to a lesser extent the operational phase.
- Dispersal of invasive species with resultant impacts and species during construction phase.

Site Name	Qualifying Interests/ Special Conservation Interest Species	Distance to Site (km)
South Dublin Bay SAC (Site Code: 000210)	Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Embryonic shifting dunes	6.25
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024)	Light-bellied Brent Goose Oystercatcher Ringed Plover Grey Plover Knot Sanderling Dunlin Bar-tailed Godwit Redshank Black-headed Gull Roseate Tern Common Tern Arctic Tern Wetland and Waterbirds	6.25
North Dublin Bay SAC (Site Code: 000206)	Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with (white dunes) Fixed coastal dunes with herbaceous vegetation (grey dunes) Petalwort	10.59
North Bull Island SPA (Site Code: 004006)	Light-bellied Brent Goose Shelduck Teal Pintail Oystercatcher Golden Plover Grey Plover Knot Sanderling Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Turnstone	8.64

	Black-headed Gull Shoveler Wetland and Waterbirds	
Table 1: Zone of Influence based on <u>NPWS</u> Data.		

Assessment of Potential Impacts

Direct Impacts

The proposed development site is not located within a Natura Sites and as such, there is no risk of habitat loss, fragmentation or any other direct impacts.

Indirect Impacts

Construction phase typically generates fine sediment, pollutants and may cause accidental spillage of oil or other toxic chemicals, which can be harmful to marine /aquatic habitats and species. As noted above, the Whitechurch Stream, River Dodder and River Liffey provide a hydrological connection between the subject site and the Natura Sites within Dublin Bay.

Notwithstanding, the sites are located at a considerable distance downstream (c.9.89km) from the proposed development. As such, having regard to the significant dilution effect, I consider that any pollutants accidentally released during construction phase would be reduced to negligible concentrations before reaching the Natura 2000 Sites in Dublin Bay.

The proposed development would be served by existing wastewater and water supply services located along Whitechurch Road, including surface water discharge to the wastewater network, as has served the existing dwelling on site subject to agreement with Uisce Éireann. On this basis, in my opinion, the proposed services would not cause any significant impacts upon the receiving waters.

As suggested by the applicant, best practice pollution prevention measures would be employed during the construction phase through a CEMP, to be submitted to the PA and agreed prior to the commencement of development.

Having considered the nature, scale and location of the project, the QI/SCI of South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC and North Bull Island SPA I am satisfied that it can be eliminated from assessment further having regard to:

- The significant distance between the project and closest European sites and dilution effect arising;
- The location of the site within an established urban area.

I conclude that 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 or 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.

Appendix 3: Water Framework Impact Assessment

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322344	Townland, address	Capri, Whitechurch Road, Dublin 14 Townland of Rathfarnham.
Description of project		Demolition of house and construction of 4 houses. Flood defence works to Whitechurch Stream on site to be undertaken by the OPW/SDCC (ABP307746-20).	
Brief site description, relevant to WFD Screening		<p>Whitechurch Stream/Kilmashogue Stream extends on eastern boundary of site, before connecting to Owenadoher River 400m to the north.</p> <p>A section of the Whitechurch Stream/Kilmashogue Stream is entitled 'Owenadoher River 010' on EPA mapping. This section is referred to as Whitechurch Stream/Kilmashogue Stream below.</p> <p>OPW are currently completing flood defence works on site including defence walls on either side of this stream, replacement of existing bridge from Whitechurch Road.</p>	
Proposed surface water details		On site underground attenuation tank, draining to existing UE wastewater network on Whitechurch Road.	
Proposed water supply source & available capacity		Proposed houses to be served from existing water supply on Whitechurch Road.	

Proposed wastewater treatment system & available capacity, other issues			Proposed houses to connect to wastewater infrastructure on Whitechurch Road.			
Others?			Not applicable			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Whitechurch Stream/Kilmashogue Stream	Forms eastern boundary of site		Moderate			Surface run-off, hydrocarbon spillage
Owendoher_010	400	Owendoher_010	Moderate	At risk	None	Downstream run-off, hydrocarbon spillage
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						
CONSTRUCTION PHASE						

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Whitechurch Stream	Surface run off	Hydrocarbon spillages	Standard Construction Measures / Conditions	No	Screened Out
	Ground	Whitechurch Stream	None	None	None	No	Screened Out
OPERATIONAL PHASE							
3.	Surface	Whitechurch Stream	None	None	None	No	Screened out
4.	Ground	Whitechurch Stream	None	None	None	No	Screened out
DECOMMISSIONING PHASE							
5.	N/A						

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