

An
Coimisiún
Pleanála

Inspector's Report

ACP323123-25

Development

Protected Structure: Retention for private open space, boundary wall and permission for enlarged public open space within the curtilage of Ballyroan House (a protected structure).

Location

Lands at Ballyroan House, Ballyroan Heights, Dublin 16.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD25A/0104W

Applicant(s)

Ballyroan Property Ltd.

Type of Application

Permission & retention.

Planning Authority Decision

Refuse permission & retention

Type of Appeal

First Party

Appellant(s)

Ballyroan Property Ltd.

Observer(s)

None.

Date of Site Inspection

22/10/25.

Inspector

Anthony Abbott King

1.0 Site Location and Description

- 1.1** The applicant site comprises Ballyroan House, a predominantly 3-storey period property built circa 1850, and its adjoining redeveloped grounds. Ballyroan House is a protected structure (RPS Ref: 275).

The lands at Ballyroan have recently been redeveloped as a small residential estate comprising houses and apartments, including the conversion of Ballyroan House to 8 apartments. The new development is referred to as “Watson Place”.

A house located to the north-east of the Ballyroan House is still under construction and the hoarding surrounding the construction site is partly located in the open space fronting Ballyroan House.

“Watson Place” is surrounded by mature suburban residential development characterised by detached and semi-detached houses with front and back gardens.

“Elkwood Park” is located to the west and north, the Ballyroan Heights housing estate is to the east and Templeroan Park housing estate is located to the south. “Elkwood View” shares the western property boundary of the site.

There is open park land abutting the open space in front of Ballyroan House to the north, comprising a satellite public open area attached to the larger open parkland at “Elkwood Park” to the north west.

The site of the appeal specifically relates to a recently constructed dwelling house, known as ‘McFarland House, located to the north-west of the protected structure abutting the western site boundary.

The specific parcel of land the subject of appeal is located in the extreme north-west of the overall Ballyroan House landholding. The open space to the north at “Elkwood Park” and the open area in front of Ballyroan House (denoted as open

space 2 on the submitted site layout map) are visually linked without boundary demarcation.

The overall site area is approximately 1 hectare.

2.0 Proposed Development

2.1 Permission & retention for development on lands of approximately 1 hectare at Ballyroan House, Ballyroan Heights, Dublin 16 (the overall development currently under construction at this site is referred to as 'Watson Place' and development subject of this application relates to this development and to the dwelling unit known as "McFarland House", Watson Place, Dublin 16. The development consists of the following:

Retention of an enlarged private open space area (increased in size from approx.. 172 sqm. to approx.. 211 sqm.) and a new boundary wall of approx. 2m in height serving McFarland House (permitted and constructed under Reg. Ref: SD3A/0302).

Permission is also sought for the inclusion of an additional area of land approx.. 3 sqm. to form part of the main area of public open space serving the overall development at Watson Place. There are no works proposed to Ballyroan House (protected structure).

All other development within the wider site remains as previously permitted under Reg. Ref: SD17A/0064 (ABP Ref: PI06S.249209), as extended under Reg. Ref: SD17A/0064/EP and as amended under Reg. Ref: SD21A/0175, Reg. Ref: SD23A/0302, Reg. Ref: Sd23A/0340 and Reg Ref: SD25A/0010W.

3.0 Planning Authority Decision

3.1 Decision

The planning authority refused permission and retention for the development for the following reason:

- 3.1.1. (1) *The land in question is zoned 'Objective OS', which seeks "To preserve and provide for open space and recreational amenities". Under the provisions of the*

South Dublin County Development Plan 2022-2028, residential development on OS zoned land is 'open for consideration' only where it accords with Policy H3 Objective 4, which seeks: To support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective 'OS' (To preserve and provide for open space and recreational amenities), only where the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved. The proposed development does not fall into the categories referred to in Policy H3 Objective 4. Therefore, the proposed development would materially contravene the zoning objective for the site and would be contrary to the proper planning and sustainable development of the area. In addition, the granting of such a proposal would also set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the open space and recreational amenities of the area and would be contrary to the proper planning and sustainable development of the area.

3.1.2. Planning Authority Reports

The decision of the CEO of South Dublin County Council reflects the recommendation of the planning case officer.

3.1.3 Other Technical Reports

None on file.

3.3. Prescribed Bodies

Having regard to article 28(1)(c) of the Planning and Development Regulations 2001 to 2018, the Commission was of the opinion that it is appropriate in the interests of justice to request the following bodies to make submissions or observations on the appeal:

- An Taisce
- the Development Applications Unit Department Housing, Local Government & Heritage (including NPWS)
- Fáilte Ireland
- The Heritage Council

The Commission invited submission under Section 131 of the Planning and Development Act, 2000 (as amended) given that the proposed development the subject of appeal might have significant effects on Ballyroan House (a protected structure).

No response(s) has been received to date.

3.4. Third Party Observations

None recorded.

4.0 Planning History

4.1 There is a complex planning history. The following permissions are relevant:

- Under SD17A/0064 (ABP Ref: PL065.249209) planning permission, subject to redesign condition(s), was granted for 20 residential units on lands at Ballyroan House – a protected structure.

The original description of the development *inter alia* comprised: the construction of 23 residential units, 21 houses & 2 apartments (ranging in size from 83.9 sqm to 348.4 sqm), all 1-3 storeys in height. The proposed development *inter alia* included the vertical separation and restoration of Ballyroan House (710.2 sqm) into 3 residential units (2-3 storey in height) - comprising external and internal demolition and reconstruction works to the protected structure, the construction of 18 houses within the grounds and 2 apartments.

It is noted that the proposal included 43 car parking spaces, open space would to be provided in the form of private open space comprising side / rear gardens courtyards, and balcony / terrace spaces and public open space areas.

- Under Reg. Ref: SD17A/0064/EP extension of duration of permission was granted for a previously approved housing development (SD17A/0064 (ABP Ref: PL065.249209) on a site at Ballyroan House – a protected structure – to provide for 20 residential units.

- Under Reg. Ref: DS21A/0175 planning permission was granted for the revision of the residential development previously permitted (under SD17A/0064 (ABP Ref: PL065.249209) - now referred to as Watson Place – comprising the replacement of 3 houses (1 x 1-bed, 1x 3-bed & 1 x 4-bed) by 8 apartments (2 x 1-bed & 6x 2-bed) all located within Ballyroan House, and including demolition, refurbishment and sub-division of Ballyroan House – a protected structure.

And the replacement of 2 x 4-bed semi-detached houses with 3 x 2-bed terrace houses.

It is noted the proposal included 43 car parking spaces, public and communal open space areas.

- Under Reg. Ref: SD23A/0340 planning permission was granted for the amendment of the residential development previously permitted (under SD17A/0064 (ABP Ref: PL065.249209), as extended by SD17A/0064/EP and as amended by DS21A/0175, *inter alia* for the retention and completion, subject to condition, of 2 (12.3 sqm) single-storey extensions constructed to the rear of houses nos. 11 & 12 and the construction of the same single-storey extension to the rear of the yet to be constructed house no.13.
- Under Reg. Ref: SD23A/0302 planning permission was granted, subject to condition, for the revision of the residential development previously permitted (under SD17A/0064 (ABP Ref: PL065.249209) , as extended by SD17A/0064/EP and as amended by DS21A/0175, for the construction of a new split level 2-storey 4-bed house (approximately 180 sqm) with associated private open space and 2 car parking spaces.

Condition 2(b) is relevant and states:

The Architectural Conservation Officer.....

(b) A Schedule of Materials should be submitted for approval and agreement providing detail and specification for the final materials and finishes for the new dwelling. It is considered that the materials and finishes should also reflect the new build within the site and the Protected Structure

with regard to colour palette etc. Samples and images should be provided as part of the Schedule of Materials. Details should also be included to improve the existing boundary wall shared with Elkwood View and any landscape elements.

REASON: In the interest of visual amenity, and effective control of the development as approved.

Summary of permitted development to date

Permission Reg. Ref. No.	House / Apartment type	Applied for	Grant permission	Total aggregate residential units permitted
SD17A/0064	21 houses / 2 apart / revised to 21 units FI	23 units	18 units	18 units
DS21A/0175	Amendment	Replace 5 houses with 8 apart. & 3 houses	8 apart. & 3 terrace houses	24 units
SD17A/0064/EP	n/a	n/a	n/a	24 units
SD23A/0302	Amendment	1 detached house	1 detached house north- west of PS	25 units
SD23A/0340	Amendment	House extension 3 units	House extension 3 units	25 units

			(subject of appeal)	
SD25A/0010W	Amendment	1 detached house	1 detached house north-east of PS (18/03/2025)	26 units

5.0 Policy Context

5.1 Development Plan

The local policy framework is provided by the South Dublin County Development Plan 2022-2028. The relevant policies and objectives in the development plan relate to the functional area of South Dublin County Council (SDCC) and are set-out below:

- Zoning

The lands at Ballyroan House are zoned Objective “RES” (To protect and / or improve residential amenity) and Objective “OS”. I note the majority of the subject site is zoned “RES”.

In the instance of this application for retention and permission, the relevant land-use zoning objective is “OS” (Map 6): *to preserve and provide for open space and recreational activities*.

Zoning Objectives are listed in Chapter 12 (Implementation & Monitoring) of the development plan, the relevant Table 12.15 (Land-Use Zoning Objective “OS”) contains a limited number of permissible uses, which does not include residential. However, Residential* is an open for consideration use when this accords with the requirements of H3 Objective 4.

H3 Objective 4 states:

To support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS" (To preserve and provide for open space and recreational amenities), only where the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved.

- Protected Structure

Policy NCBH19: (Protected Structures) is relevant and states:

Conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

Policy NCBH19 Objective 1 states:

To ensure the protection of all structures (or parts of structures) and their immediate surroundings including the curtilage and attendant grounds of the structures identified in the Record of Protected Structures.

- Green Infrastructure

Chapter 5 (Green Infrastructure) is relevant including Figure 4.4 (Green Infrastructure Strategy Map).

- Public Open space

Chapter 5 (Community Infrastructure & Open space (COS), Section 8.7.4 (Delivery of Public Open space and Contributions in Lieu) Policy CO55 Objective 4 *inter alia* states:

To require the provision of public open space as part of a proposed development site area in accordance with the Public Open Space Standards (minimum) set out in Table 8.2.

Table 8.2 (Public Open Space Standards)

Land Use	Public Open Space Standards (minimum)	
New Residential Development on Lands Zone RES-N		Minimum 15% of site area
New Residential Development on Lands in Other Zones including mixed use		Minimum 10% of site area
Institutional Lands / 'Windfall' Sites		Minimum 20% of site area

5.2. Relevant National or Regional Policy / Ministerial Guidelines

- The Department of Housing, Local Government and Heritage 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities', (15 January, 2024).

SPPR2 (Minimum Private Open Space Standards for Houses) *inter alia* states:

It is a specific planning policy requirement of these Guidelines that proposals for new houses meet the following minimum private open space standards:

1 bed house 20 sq.m

2 bed house 30 sq.m

3 bed house 40 sq.m

4 bed + house 50 sq.m

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination.

7.0 The Appeal

7.1 Grounds of Appeal

The grounds of appeal, prepared by LHA Architecture, 45 South Hill, Dartry, Dublin 6 on behalf of the appellant, are summarised below:

- The development subject of this application relates to the dwelling unit known as 'McFarland House, Watson Place, Dublin 16.
- The appellant respectfully submits that South Dublin County Council erred in the interpretation of the subject application. It is claimed that the planning authority did not give adequate consideration of the submission presented by the applicant.
- The application is for the extension of both private and public open space. It is claimed that both private and public open space should be permissible in principle under the zoning objective.
- The application cover letter, prepared by Brock McClure, supports the applicant's case. The cover letter seeks retention for the following: (1) the extension of an enlarged private garden area from 172 sqm to 211 sqm; (2) relocation of boundary wall of 2m in height.
- The cover letter states that the subject lands have until recently been occupied by scrub, under growth and briars and were unused. The lands are in the ownership of the applicant as evidenced in Appendix A of the cover letter.
- The application for retention and permission seeks to retain the extension of the private garden of the split-level detached house (known as McFarland House), located to the north-west of Ballyroan House (protected structure), permitted under the amendment application Reg. Ref: SD23A/0302 to the parent permission.
- A Section 5 Declaration in the matter of the subject lands was lodged with the planning authority. The planning authority considered the reallocation of land and works, to reconfigure the location of the permitted 2m high garden boundary wall, not to be exempted development. The retention application the subject of appeal seeks to regularise this situation.
- The residual lands the subject of this appeal represent a small portion of land (3 sqm), which is proposed to be subsumed into the public open space.

- Section 4.1 of the cover letter provides a zoning rationale for the planning application, I summarise as follows: A portion of the applicant land is zoned “OS”. Open space is listed within the zoning matrix as permitted in principle. The configuration of the subject lands as private and public open space is therefore permissible given that open space is *inter alia* defined as space that is predominantly free from development and has an element of public value or potential public value, including publicly or privately owned lands and passive and active amenity spaces (Appendix 6 – definition of use class).

7.3. Planning Authority Response

The Planning Authority confirms its decision. The issues raised in the appeal have been covered in the CEO Order.

7.4. Observations

None to date.

7.5. Further Responses

None

8.0 Assessment

- 8.1. I examined the application details and all other documentation on file and on-line, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant planning policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Permitted development
- Zoning
- Open space provision
- Impact on the character and setting of the protected structure
- Green Infrastructure

Permitted Development

- 8.2 There is a complex planning history on the lands at Ballyroan House. A summary table of permitted development is included in Section 4.0 of this report.

The planning authority report highlights that the previous permitted developments are located on lands zoned "RES": *To protect and / or improve residential amenity.*

I note this distinction between the previously permitted development (and as amended) and the development the subject of this appeal, which is located outside the "RES" zoning objective.

The subject appeal relates to a specific parcel of land located to the extreme north-west of the overall Ballyroan landholding adjacent to the permitted 4-bedroom detached dwelling known as McFarland House.

Permitted development under Reg. Ref: SD23A/0302

- 8.3 This dwelling unit was permitted by the planning authority under Reg. Ref: SD23A/0302 on 14/03/2024. The house is a substantial 180 sqm in floor area.

The applicant was asked by way of a further information request *inter alia* for design clarifications, including how the proposed boundary treatment would integrate with the existing surroundings (Item 1b).

The applicant response included an elevation of the western boundary wall (Drg. C0_3 / issue 02). The planning authority noted that the garden wall (new block work construction) would be stepped in height to reflect the relative ground levels and acknowledged that increases in the height of the western boundary wall are required to negate overlooking of the private amenity space of dwellings to the west of the site ("Elkwood View").

I note the increase in height in the shared property boundary with the pre-existing adjoining residential properties to the west. I also note the height of the proposed wall varies as per the submitted further information response. Finally, the northern section of the western boundary wall is clearly shown at 2m in height.

I have reviewed the permitted drawings, as clarified by further information response. The garden of the permitted dwelling house (FI response Drg. B_01 / Issue 02 dated 07/02/24) is similar in layout, enclosure and use as the

development to be retained and permitted albeit that the rear garden as constructed has been substantially augmented in site area.

The enclosing garden wall on the eastern and northern boundaries to the rear garden space have a stone faced material finish. The eastern and northern boundary walls are identical in height, as shown on the permitted drawings ((Drg. C0_2 / Issue 02 dated 07/02/24 - Sections and Elevations).

Finally, Condition 2 (conservation officer requirements) of Reg. Ref: SD23A/0302 requires *inter alia* the finish of the western garden boundary wall to be agreed prior to the commencement of development.

There is no record of a compliance drawing on file.

Permitted development vs existing development on site

- 8.4 The permitted rear garden wall to the north was splayed following the pre-existing property boundary between the Ballyroan House lands and "Elkwood Park".

Appendix A of the applicant's cover letter details the ownership of a parcel of land previously external to the development site characterised as scrub land, which is the subject of this appeal. The additional land has been incorporated into the "Watson Place" development.

The additional land extends the garden of McFarland House approximately 7.5m north of the permitted western garden wall boundary and approximately 2.7m north of the permitted eastern garden wall boundary.

The western boundary wall has been extended north (3000mm as shown on Drg. B_01 / issue 01 - Floor Plans) from the permitted western boundary (Reg. Ref: SD23A/0302).

The splay of the permitted garden wall has been replaced by a right angle relationship between the extended western boundary wall and the rear northern garden boundary wall (8978mm in length as shown on Drg. B_01 / issue 01 - Floor Plans). The new relationship creates an oblong garden to the rear of McFarland House replacing the smaller permitted wedge shaped garden. The northern and eastern boundary walls are stone faced.

The eastern boundary wall is extended beyond the eastern boundary originally permitted under Reg. Ref: SD23A/0302 (Drg. B0_1 / Issue 02, dated 07/02/24) to meet the new reconfigured northern boundary wall. I note the eastern boundary wall as permitted extended north 6421mm (Drg. A_02 / Issue 02 dated 26/07/24). The existing eastern boundary extends north 9169mm (B-01 / Issue 01- Floor Plans).

- 8.5 There is a clear discrepancy in the floor plan drawings and section & elevation drawings submitted with the current application in the matter of the location of the eastern boundary garden wall.

Drg. C_01 / issue 01 (Section & Elevations) submitted with the current application incorrectly shows the location of the eastern boundary wall, which is shown in the location previously permitted under Reg. Ref: SD23A/0302 (Drg. B0_1 / Issue 02, dated 07/02/24).

I note for the information of the Commissioners that the eastern boundary wall to be retained is located further to the east of that permitted, as correctly shown on Drg. B_01 / issue 01 – (Floor Plans) submitted with the current application.

My site visit confirms that the eastern boundary wall to be retained is as shown on Drg. B_01 / Issue 01 (Floor Plans) and not as it is shown on Drg. C_01 / Issue 01 (Section & Elevations).

The eastern boundary wall is set back 1445mm on the permitted drawings from the eastern elevation of McFarland House (Drg. A_02 / Issue 02 dated 26/07/24). The eastern boundary wall to be retained as shown on Drg. B_01 / Issue 01 (Floor Plans) is approximately 1m to the east of its previously permitted position. The rear garden was approximately 6.5m in dept at the eastern extremity. This would indicate the privatisation of approximately 6 sqm of the permitted public open space to the east of McFarland House.

The existing west, north and east garden boundary walls of McFarland House to the rear garden are identical in height (2000mm) and are viewed as such from adjacent vantage points within the public space interfacing with the rear garden boundary enclosure – please see photographic record.

- 8.6 In conclusion, the reconfigured existing rear garden wall(s) to be retained facilitate the incorporation of the wedge of land to the north-west of the historic Ballyroan House site boundary, all located on lands zoned "OS", which was previously excluded from the rear garden of McFarland house by the splay of the permitted garden wall and by reason of property ownership.

The permitted rear garden northern and eastern boundary wall(s) have a stone faced finish on the submitted documentation (Drg. C0_2 / Issue 02 dated 07/02/24 - Sections and Elevations) and as constructed on site.

However, the finish of the boundary wall(s) to "Elkwood View" (to the west) is a matter of compliance with Condition 2 of the amendment permission granted under Reg. Ref. SD23A/0302 notwithstanding that the western boundary is denoted as of block work construction in the response to the further information request under Reg. Ref. SD23A/0302 (Drg. C0_3 / Issue 02 dated 07/02/24).

Zoning

- 8.7 The permitted garden of McFarland House is located within the substantive Ballyroan House ("Watson Place") lands "RES" zoning objective.

However, the reconfigured extended rear garden and new rear garden boundary wall(s) the subject of this appeal is located within an area zoning "OS" (open space) on zoning Map 6 of the development plan.

- 8.8 The substantive matter under appeal is compliance with the "OS" zoning objective of the South Dublin County Development Plan 2022-2028, which seeks to *preserve and provide for open space and recreational activities*.

The planning authority refused planning permission on the grounds that the development the subject of appeal was inconsistent with the provision of H3 Objective 4, which facilitates an exemption to accommodate residential use within the zone where certain criteria are met.

H3 Objective 4 provides that in instances that development, which would support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS" is permissible. However, the exceptional circumstance is only applied where

the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved.

The planning authority was the opinion that the exception did not apply as the overall “Watson Place” development did not satisfy the exemption criteria.

- 8.9 I note that residential development on lands zoned “OS” are not generally permissible. However, in the exceptional circumstance where development supports community led housing developments for older persons and social and council affordable housing residential development may be permissible subject to preserving the quality and quantum of remaining public open space.

I concur with the planning authority that the overall residential development at “Watson Place” would not satisfy the exemption criteria.

However, I do not consider the development to be retained and proposed to be residential development *per se* rather the development the subject of appeal relates to the allocation of open space. Open space is a permissible use – see Table 12.15 of the development plan permitted in principle uses.

- 8.10 I note that the permitted rear garden wall of McFarland house, as permitted under Reg. Ref: SD23A/0302, would appear to follow the indicative line of the interface of the zoning blocks denoted on zoning Map 6 of the development plan between the “RES” objective area highlighted in beige and the “OS” objective area highlighted in green.

I consider that the logic of the permitted boundary wall is in part dictated by the indicative zoning blocks on Map 6.

I note that the overall “OS” zoning covers a large area of open parkland denoted as “Elkwood Park”

- 8.11 The applicant has extended the rear garden of McFarland house into the “OS” objective area highlighted in green on zoning Map 6.

The appellant claims that open space is listed within the zoning matrix as permitted in principle. The configuration of the subject lands as private and public open space is therefore permissible given that open space is *inter alia* defined as space that is predominantly free from development and has an element of public value or

potential public value, including publicly or privately owned lands and passive and active amenity spaces.

The “OS” zoning is a highly restrictive zoning objective, which seeks to preserve and provide for open space and recreational activities.

Appendix 6 (Definition of Use Classes) defines open space as follows:

Open space relates to spaces that are predominantly free from development and have an element of public value or potential public value. Such spaces do not relate exclusively to lands and can include water bodies such as rivers, canals, lakes and reservoirs, which offer important opportunities for sports and recreation and can also act as a visual amenity. Open spaces include public or privately owned lands and passive and active amenity spaces.

I consider that the subject lands satisfy the definition of open space given that these lands are predominantly free of development.

I also consider that the open space designated as private open space ancillary to the dwelling house (McFarland House) satisfies the defined as space that ‘has an element of public value or potential public value’. I conclude over time that planting within the mature rear garden of the subject dwelling house will be visible above the boundary wall, providing a seamless visual amenity between the private and public open space, as viewed from the public open space at “Elkwood Park” and “Watson Place”.

I note that the application also comprises development works to be retained. I interrogate this matter below.

In conclusion, I would agree with the appellant that the use of the subject lands as both private and public open space is permissible under the “OS” zoning objective.

- 8.12 The physical works within the “OS” zoning designation comprise a 2m high boundary wall separating the private open space of the dwelling house from the public open space at “Elkwood Park” and the public open space (Area 2 as

demarcated on the Watson Place site layout plan) in front of Ballyroan House – protected structure.

The stone faced boundary wall (previously permitted under Reg. Ref: SD23A/0302) as reconfigured within the “OS” zoning designation to accommodate the extension of the rear garden of McFarland House is of recent construction. It is clearly visible from the public open space at “Elkwood Park” and “Watson Place”, which is an integrated public space visually open without demarcation.

I note that the growth of planted vegetation may result in a more mature sylvan setting moving forward similar to the existing mature planting to the north of the subject rear boundary wall – see photographic record.

I consider the works Di minimis within the overall “OS” zoning objective area, comprising the extensive parkland denoted as “Elkwood Park”, given the modest scale, footprint and material finish of the enclosing garden boundary wall.

Finally, I consider that the subject garden wall as the demarcation of the public open space is ancillary to the public open space use, as the extent of the public open space must be defined by a property boundary at the interface with adjoining land uses. In instance of the development under appeal the separation of the curtilage of McFarland house and “Elkwood Park”.

Furthermore, I consider that cut-stone garden walls are a characteristic of historic landscape settings and public open space provision. I would anticipate moving forward that the visibility of the wall will be screened by mature planting.

- 8.13 Finally, I do not consider that the development to be retained and permitted would set a undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the open space and recreational amenities of the area given the Di minimis nature of development (a 2m high garden boundary wall), the relatively modest area of parkland / scrubland the subject of the application (approximately 45 sqm) and the unique configuration of the property boundary between “Watson Place” and “Elkwood Park”.

I conclude that the subject lands, forming the private open space ancillary to the dwelling house, satisfy the definition of open space given that these lands are

predominantly free of development and would by reason of visual amenity provide an element of public value or potential public value.

Therefore, I do not consider that the development to be retained and permitted materially contravenes the “OS’ zoning objective, which provides for open space as a permissible use, given that the proposed use of the subject lands is for the purposes of private and public open space with Di minimis works to facilitate open space use.

Open Space

8.14 McFarland House is a 4-bedroom split level detached house. SPPR2 of The Sustainable Residential Development and Compact Settlement Guidelines (January 2024) requires a minimum private open space standard for new 4-bedroom houses of 50 sqm.

I note that the private open space attached to McFarland house would be configured in a combination of side and front patio areas with a grassed rear garden, as permitted under ref. Ref: SD23A/0302.

The application under appeal increases the overall private open space provision by approximately 40 sqm (from approximately 172 sqm. to approximately 211 sqm.).

The extended rear garden would measure approximately 74 sqm (8820mm x 8353mm).

The open space provision in the form of patios and rear garden would satisfy quantitative and quantity standards for the provision of amenity space for a 4-bedroom dwelling house.

I consider that the provision of private open space would be consistent with both development plan and national guidelines in the provision of private open space.

Finally, I note that the public open space provision would be marginally reduced given the realignment of the eastern boundary rear garden wall of McFarland House – See paragraph 8.5 above.

The realignment of the eastern garden boundary would result in the privatisation of approximately 6 sqm of the permitted public open space at “Watson Place”. The applicant proposes to increase the public open space provision by 3 sqm.

Therefore, the net deficit in public open space would be an approximate 3 sqm. I do not consider the marginal decrease in public open space to be materially significant given the amenity use and undeveloped character of the privatised space subsumed within the rear garden of McFarland House.

Protected Structure Status impact on character, curtilage and setting

8.15 Ballyroan House and its immediate curtilage is a protected structure. As discussed above the grounds of Ballyroan House have been redeveloped as a small residential housing estate, known as Watson Place, and the house itself has been converted into apartments. The planning history is documented in Section 4.0 of this report.

The subject appeal relates to a specific parcel of land located to the extreme north-west of the overall Ballyroan landholding adjacent to the permitted 4-bedroom detached dwelling known as McFarland House.

The Commission in accordance with Section 131 of the Planning and Development Act, 2000 (as amended), in the matter of potential significant effects to Ballyroan House (a protected structure), invited parties to make comment on 05/09/2025 – see Section 3.3.

8.16 Policy NCBH19: (Protected Structures) of the South County Dublin Development Plan 2022-2028 states: *Conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.*

It should be noted that the application under appeal does not include proposed / retention works to the protected structure (RPS Ref: 275). However, the development the subject of appeal is within the immediate curtilage of the protected structure.

I consider that the impact of the proposed development to be retained and permitted requires assessment within the overall site context and setting of Ballyroan House – a protected structure.

8.17 The Commission had received no submissions in accordance with Section 131 of the Planning and Development Act, 2000 (as amended), in the matter of potential significant effects to Ballyroan House, from parties notified on 05/09/2025 by the horizon submission date 02/10/2025, including: “An Taisce”: the Development Applications Unit Department Housing, Local Government & Heritage (& NPWS); Failte Ireland; The Heritage Council.

8.18 The substantive matter under appeal is the enlargement of the rear garden of the McFarland House, permitted under amendment application Reg. Ref: SD23A/0302.

The landscape grounds at “Watson Place” fall toward “Elkwood Park” mitigating the visual impact of development within the curtilage of the protected structure to the north of Ballyroan House – the location of the development to be retained and permitted.

The elevated 3-storey Ballyroan House remains the dominant architectural feature within a sensitively redefined setting, accommodating suburban residential development, when viewed from vantage points to the north – please see photographic record.

The enclosing garden boundary wall to be retained to the north and east, which is positioned in a reconfigured location to that previously permitted under Reg. Ref: SD23A/0302 (please see above), is a stone faced wall. I note the western boundary wall of block work construction is not visible in view corridors toward Ballyroan House.

I do not consider that the reconfigured position of the stone faced garden boundary wall(s) to McFarland House, to the north-west of the protected structure, would have a significant visual impact on the protected structure or the setting of the protected structure.

8.19 I conclude that the open space to the front of Ballyroan House, as reconfigured to provide for the extension of the rear garden of McFarland House, comprising an open setting with circulation area, provides the protected structure with an appropriate landscaped front curtilage visually integrating with “Elkwood Park”.

I do not consider that the development to be retained and permitted would have an adverse impact on the character of the protected structure or the setting of the protected structure at Ballyroan House.

Green Infrastructure

8.20 I note that the appeal site is located proximate to a Secondary GI Link (L11- M50 / DRL crosslink) as defined in Figure 4.4 : Green Infrastructure Strategy Map, of the South Dublin County Development Plan 2022-2028.

I do not consider that the development to be retained and permitted would have an adverse impact on this designation given the retention of the open character of the subject lands and the de minimis nature of development works (boundary wall).

8.21 I also note that the planning authority under Reg. Ref: SD23A/0302 requested *inter alia* for the submission of a comprehensive green infrastructure plan (Item 3). The landscape plan, prepared by Austen Associates Landscape Architects, satisfied the requirements of the planning authority in matters related to sustainable drainage, biodiversity, tree planting and permeable surfaces.

I have reviewed the submitted Austen Associates Landscape Architects landscape plan on-line (Drg. 087323 – LP- 01 / Revision C). I consider that the development to be retained and permitted is consistent with the principles submitted and would not adversely impact the landscape plan.

9.0 AA Screening

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

The subject site is located within an established suburban area and is connected to piped services and is not immediate to a European Site. The proposed development comprises minor boundary changes to an existing constructed building.

No significant 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 effect on a European Site given the small-scale nature of the development.

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.

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

10.0 Water Frame Directive

10.1. The site is located in a mature suburban location at Ballyroan Heights. It is not proximate to a visible watercourse.

The proposed development comprises a minor property boundary amendment to an existing building.

No water deterioration concerns were raised in the planning appeal.

I have assessed the 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 good 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 the small scale and nature of the development.

I conclude based on objective information, the proposed development will not result in a risk of deterioration of 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.

11.0 Recommendation

11.1. I recommend a grant of planning permission subject to condition for the reasons and considerations outlined below

12.0 Reasons and Considerations

Having regard to the “OS” zoning objective, which seeks to preserve and provide for open space and recreational activities, the pattern of development in the area, which is characterised by detached and semi-detached houses with front and back gardens and the policy context provided by the South Dublin County Development Plan 2022-2028, including the definition of open space detailed in Appendix 6 (Definition of Use Classes), the development to be retained and permitted, comprising the retention of the extension of the amenity area of the rear garden of a private dwelling house (McFarland House) and the enclosing boundary wall, within the historic curtilage of Ballyroan House- a protected structure - would in general be consistent with the policies and objectives of the South Dublin County Development Plan 2022-2028, would not have an adverse impact on the character of the protected structure or its setting, would not represent a material contravention of the “OS” zoning objective by reason of satisfying the definition of open space and, would be consistent with the proper planning and sustainable development of the area.

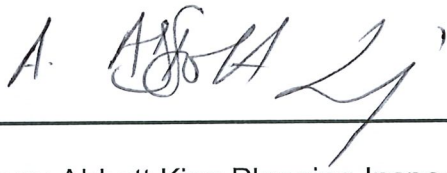
13.0 Conditions

1. The development to be retained and proposed shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

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.

A handwritten signature in black ink, appearing to read 'A. Abbott King', written over a horizontal line.

Anthony Abbott King Planning Inspector

30 October 2025

Appendix A: Form 1 EIA Pre-Screening

Case Reference	ACP323123-25
Proposed Development Summary	Retention of private open space boundary wall
Development Address	Lands at Ballyroan House, Ballyroan Heights, Dublin 16
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?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
(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)	No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, 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.	N/A
<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 <u>Part 2</u>, 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	State the Class and state the relevant threshold N/A
<input 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)	State the Class and state the relevant threshold N/A
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"/>	N/A
No <input type="checkbox"/>	N/A

Inspector: A. [Signature] Lj

Date: 30/10/2025