

Comhairle Chontae Atha Cliath Theas

PR/0513/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: SD22A/0069 **Application Date:** 25-Feb-2022
Submission Type: New Application **Registration Date:** 25-Feb-2022

Correspondence Name and Address: Jong Kim, AKM Design Unit 6, Kingswood Business Park, Kingswood Road, Citywest, Dublin 24

Proposed Development: Demolition of derelict house and construction of 4 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.

Location: 'Capri', Whitechurch Road, Rathfarnham, Dublin 14.

Applicant Name: Gerard O'Connor

Application Type: Permission

(CM)

Description of Site and Surroundings:

Site Area: 0.15 Hectares.

Site Description:

The subject site is located on the east side of Whitechurch Road (R115). The site is rectangular in shape and extends over 0.15 hectares. The north and east of the site abuts residential dwellings in Whitechurch Stream and Willbrook Lawn respectively. The Whitechurch Stream (tributary of the Owendoher River) traverses along the eastern boundary of the site on a north/south axis. The Whitechurch Stream separates the site from the Whitechurch Road. Grange Park lies to the east of the R11.

Site Visit: 14/4/22

Proposal:

The application proposes the following:

- Demolition of derelict house and construction of 4 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.

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Zoning:

The subject site is subject to zoning objective 'RES' - 'To protect and/or improve residential amenity'.

Consultations:

Environmental Services	Requests Additional Information.
Irish Water	Requests Additional Information.
Public Realm	Requests Additional Information.
Roads	No objection, subject to conditions.

SEA Sensitivity Screening:

SEA Overlap with the following layers:

- SFRA A 2016

Submissions/Observations /Representations

Submissions have been received that have raised the following concerns:

- Risk of flooding downstream
- Site is being raised and therefore heights are unacceptable.
- Overshadow adjacent gardens
- No boundary wall shown. A 2-metre boundary wall should be constructed.
- Plan for removing Japanese Knotweed should adhere to higher standards; current plan is sub-par. Monitoring period proposed is 2 years, this should be 5.
- Japanese Knotweed survey is not up to date and significant works have taken place since.
- Site clearance works on the site as recently as 29th March.
- Potential flooding arising from raised ground levels.
- Application drawings erroneously misnumbering adjoining dwellings.
- No provision for opaque windows to the rear and this will cause loss of privacy.
- SDCC and applicant have not confirmed accurate inflows and outflows from River Glin (watercourse through site).
- AA Screening / EIA screening therefore impossible. Development is contrary to EU Habitats Directive and EIA Directive.
- Impact on otters has not been assessed. SDCC has failed to consider impact on otters previously.
- Impact on fish both travelling through and spawning.
- Bat survey inadequate.
- Adjoining site is not-compliant with planning.
- Subject site is used for dumping and has an insecure perimeter.

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- Invasive species are present on site and have not been addressed by owner.
- Bird survey inadequate.
- No construction plan submitted.
- Height, density and massing is out of character. Intensification of development would be disruptive to local character.
- Impact on ACA and streetscape, tree line needed.
- Overshadowing and overlooking.
- Traffic report is inadequate.
- Private amenity space is poor.
- Open space for recreational purposes is inadequate.
- Boundary treatment is poor/unsympathetic.

The issues raised in the third-party submissions have been taken into account in the assessment of the proposal.

Relevant Planning History

NB: Many of the applications for alterations/revisions relate to permission SD11B/0236, itself an alteration to permission SD09A/0055 & PL06S.235823. A final grant for SD11B/0236 was not issued until 24th October 2016. Taking into account 9 days per annum for five Christmas periods (45 days in total), and 56 days as set out in s.251A of the Act, and the 9 days of the sixth Christmas period in 2021/22, the application withered on 9th February 2022. There is no record of an application for an extension of duration. There is therefore **no extant permission on the site.**

SD21A/0077

Permission refused for change of house type of the approved dwelling to 4 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 reasons for refusal were as follows:

1. Having regard to the proposed additional height, the site context, and the planning history of the site including an appeal decision (PL 06S.2424662), the proposed development, by reason of the excessive height and bulk of the roof profile, would constitute an incongruous and visually obtrusive form of development on a site of limited depth from front to rear. The proposal would, therefore, seriously injure the amenities of property in the vicinity and the visual amenity of the established residential development in the vicinity and particularly that of the adjoining houses to

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the west at Willbrook Lawn. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene, materially, a condition attached to a previous and extant permission for development under application reference SD11B/0236. This condition requires that the overall ridge height of the proposed houses should be 7,650 mm as previously permitted under An Bord Pleanála appeal reference number PL 06S.235823 and SDCC reference SD09A/0055. The condition also requires that the proposed attic space should be used for storage purposes. The proposal is therefore considered to be contrary to the proper planning and sustainable development of the area.

SD20A/0016

Permission granted for change of house type of the approved dwellings to 4 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 semi-detached, 2 bedroom with study dwellings and associated works under SD09A/0055 and SD11B/0236. **Final Grant date was 6th August 2020.** Condition 2 of SD20A/0016 states that the permission shall expire upon the expiry of permission SD11B/0236, subject to any grant of extension of duration of that permission. Permission SD11B/0236 expired on 9th Feb 2022. **This means that permission SD20A/0016 has expired.**

SD18A/0433

Permission refused for change of house type of the approved dwellings to 4 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 SD09A/0055 and SD11B/0236.

The reasons for refusal were as follows:

1. *The Planning Authority has serious concerns regarding the scale of the proposed development, particularly in the context of the Whitechurch Stream, a tributary of the Owendoher River, which runs directly along the eastern site boundary. The proposed development would result in significant encroachment on the Whitechurch Stream and bank as all four dwellings would be located within 4 metres of the Whitechurch Stream, while Unit 4 would be located within 2 metres of the stream. The proposed hard landscaping and boundary wall come within less than 1 metre of the water's edge.*

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The proposed development would be injurious to the ecological capacity of the Whitechurch Stream and flood management capacity of the stream. Ground preparation and associated construction works, including modifications to the existing bridge as well as the construction of a new vehicular bridge would have significant potential to cause the release of sediments and pollutants into the stream, thereby impacting adversely on its ecological integrity and associated watercourses downstream. The applicant has failed to address the impacts of the proposed development on the watercourse, has failed to provide detailed design of the proposed new vehicular bridge, has failed to provide sufficient details in respect of the outfall to the Whitechurch stream and has not incorporated a buffer zone between the dwelling and the stream.

It is the current Development Plan Policy of the Council on Green Infrastructure; [Policy G3] to promote the natural, historical and amenity value of the County's watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level. It is also a Development Plan Policy Objective (G3-2) to 'To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network.'

Furthermore it is a Development Plan Policy Objective (G3-5) 'To restrict the encroachment of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to: the prevention of pollution of the watercourse, the protection of the river bank from erosion, the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development.

The proposed development would be contrary to Policy G3 of the South Dublin County Development Plan 2016-2022, would be contrary to G3 Objective 2, G3 Objective 5 and would be contrary to the proper planning and sustainable development of the area. Failure to maintain a biodiversity protection zone of not less than 10 metres and restrict the encroachment of development on watercourses would constitute overdevelopment of the site and contravenes the zoning objective 'to protect and /or improve residential amenity'. Thus, the proposed development would seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

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- 2. Insufficient details have been submitted in terms of the proposed surface water and foul water drainage systems and flood risk management, therefore it has not been demonstrated by the applicant that the proposed development is consistent with the Greater Dublin Regional Code of Practise for Drainage Works or with the Irish Water Standard Details and the Building Regulations 2010 Technical Guidance Document B. In the absence of such information, the proposed development would likely result in adverse impacts on the aquatic environment of the Whitechurch Stream and watercourses downstream of the site.*

It is the current Development Plan Policy of the Council on Infrastructure and Environmental Quality [Policy IE 2 Surface Water and Groundwater] 'to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.' It is also a development plan objective (IE2-8) 'to protect salmonid water courses, such as the Liffey and Dodder Rivers catchments (including Bohernabreena Reservoir), which are recognised to be exceptional in supporting salmonid fish species.' and [IE2-9] 'to protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone).' The Whitechurch Stream is a tributary of the Owendoher River, which is a tributary of the River Dodder, which in turn flows into Dublin Bay which hosts a number of Natura 2000 sites. It should also be noted that the Owendoher River is the most important nursery and recruitment channel for salmonids in the Dodder system.

The proposed development would therefore materially contravene the Infrastructure and Environmental Quality policies and objectives contained within the South Dublin County Council Development 2016-2022 and would be contrary to the proper planning and sustainable development of this area.

- 3. Failure to submit landscaping proposals, a tree survey, Arboricultural Impact Assessment, an ecology report, a bat survey, a cross-section of the existing site including adjacent key features, and appropriately address the presence of invasive species onsite, are considered significant as the application fails to address environmental and ecological considerations, the protection of the stream and thereby, inhibits the Planning Authority to undertake a comprehensive assessment of the site in the context of the proposed works.*

SD13B/0219 & PL06S.242662

Permission Refused for: Modifications to SD11B/0236 for construction of 4 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

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increase in height by 775mm to create a second storey with 1 window to front elevation and 1 'Velux' to front and side roof and 3 high level 'Velux' rooflights to rear roof; minor internal alterations to include 2 windows to side gable at ground floor and associated works.

SD12B/0140

Permission Refused for: Modifications to SD11B/0236 (construction of 4 2 storey semi-detached houses with 8 parking spaces, new bridge to Whitechurch Road & 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 window to front elevation and 1 'Velux' to front & side roof and 3 high level 'Velux' rooflights to rear roof; minor internal alterations to include 2 windows to side gable at ground floor and associated works.

SD11B/0236

Permission Granted for: Modifications to SD09A/0055 and An Bord Pleanála Ref. PL06S.235823 for construction of 4 2 storey, semi-detached houses with 8 parking spaces with new bridge to Whitechurch Road & associated landscaping & drainage works. Modifications include increased overall height by 775mm to create a second storey with 2 '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 which increases front bedroom by 2.2sq.m.

The decision to grant permission was made on 15th March 2012. Final grant of permission was not issued until 2016.

SD10A/0191

Permission Refused for: Modifications to SD09A/0055 and Bord Pleanala Reference PL06S.235823 for construction of 4 2 storey, semi-detached houses with 8 parking spaces with new bridge to Whitechurch Road & associated landscaping & drainage works. The modifications to approved dwellings include increased overall height by 775mm to create a second storey with dormer window to front roof, increased width of dwellings by 500mm & modifications to front elevation fenestration and revisions to internal layout of first floor plan which increases front bedroom by 2.2sq.m.

SD10A/0123

Permission Refused for: Refurbishment of existing bungalow and construction of 1 residential caravan park bay and associated works. This is traveller specific accommodation.

SD09A/0055 & PL06S.235823

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Permission Granted for: Demolish existing bungalow and bridge and construct 4 2 storey, semi-detached houses with 8 parking spaces with new bridge to Whitechurch Road & associated landscaping & drainage works.

Grant of permission dated 20th May 2010. This decision would ordinarily have withered on 19th May 2015.

SD07A/0268 & PL06S.235823

Permission Refused for: Demolition of the existing house and outbuildings and the construction of 4 4-bedroom two-storey, semi-detached townhouses, together with ancillary site development works including a new bridge for access from Whitechurch Road.

SD05A/0955 & PL06S.227061

Permission Refused for: Demolition of the existing house and outbuildings, and the construction of 4 4-bedroom two storey, semi-detached townhouses, together with ancillary site development works, including a new bridge for access from Whitechurch Road.

SD04A/0963 & PL06S.212334

Permission Refused for: A residential development consisting of 5 4-bedroom townhouses: the townhouses are two storey to eaves level and utilizing the roof space for the third floor, together with ancillary site development works, including a new bridge for access from Whitechurch Road.

S01A/0621 & PL06S.109044

Grant Outline Permission for: Demolition of existing single storey detached dwelling with garage and construction of new two storey, detached dwelling with garage and three two storey townhouses with parking along with relocation of site entrance.

Relevant Enforcement History

Enf. Ref. S6408 Status: Closed in 2010.

Pre-Planning Consultation

No recent record of pre-planning consultation.

Relevant Policy in South Dublin County Development Plan (2016-2022)

Chapter 1 Core Strategy
Policy CS1 Objective 1
Policy CS2 Objective 5

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Chapter 2 Housing

Section 2.4.0 Residential Consolidation

Policy H17 Residential Consolidation

Chapter 7 Infrastructure and Environmental Quality

Section 7.2.0 Surface Water & Groundwater

Policy IE2 Objective 9

“To protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone).”

Chapter 8 Green Infrastructure

Policy G3

“It is the policy of the Council to promote the natural, historical and amenity value of the County's watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level.”

Policy G3 Objective 2

“To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network.”

Policy G6

It is the policy of the Council to support the protection and enhancement of Green Infrastructure in all new development in urban areas, to strengthen Green Infrastructure linkage across the wider urban network and to achieve the highest standards of living and working environments.

G6 Objective 1:

To protect and enhance existing ecological features including tree stands, woodlands, hedgerows and watercourses in all new developments as an essential part of the design process.

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Chapter 11 Implementation

Section 11.3.0 Residential

Section 11.3.2 Residential Consolidation

Infill Sites

“Development on infill sites should meet the following criteria:

- Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual.
- A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character.
- Significant site features, such as boundary treatment, 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.
- Where the proposed height is greater than that of the surrounding area a transition should be provided (see Section 11.2.7 Building Height).
- Subject to appropriate safeguards to protect residential amenity, reduced 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.
- Proposals to demolish a dwelling(s) to facilitate infill development will be considered subject to the preservation of the character of the area and taking account of the structure's contribution to the visual setting or built heritage of the area.”

Section 11.6.1 (i) Flood Risk Assessment

Section 11.8.0 Environmental Assessment

Relevant Government Policy

Ministerial Guidelines and Policy

Project Ireland 2040 National Planning Framework, Government of Ireland (2018).

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Regional, Spatial & Economic Strategy 2020-2032 (RSES), Eastern & Midlands Regional Assembly (2019)

Section 5 – Dublin Metropolitan Area Strategic Plan, in Regional, Spatial and Economic Strategy 2019 – 2031.

Rebuilding Ireland: Action Plan for Housing and Homelessness, Government of Ireland (2016).

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, Department of Housing, Planning and Local Government (2020).

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, Department of the Environment and Local Government (2009).

Urban Design Manual, Department of the Environment, Heritage and Local Government, (2008).

Urban Development and Building Heights Guidelines for Planning Authorities, (2018)

Quality Housing for Sustainable Communities-Best Practice Guidelines, Department of the Environment, Heritage and Local Government (2007).

Design Manual for Urban Roads and Streets Department of the Environment, Community and Local Government and Department of Transport, Tourism and Sport (2013).

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

The Planning System and Flood Risk Management - Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government & OPW, (2009).

Departmental Circulars, Department of Housing, Planning and Local Government (2020) – as listed:

PL02/2020: Covid-19 Measures

PL03/2020: Planning Time Periods

PL04/2020: Event Licensing

PL05/2020: Planning Time Periods

PL06/2020: Working Hours Planning Conditions

PL07/2020: Public Access to Scanned Documents

PL08/2020: Vacant Site Levy

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Circular NRUP 02/2021 - Residential Densities in Towns and Villages

Assessment

The main issues for assessment are:

- Background and context
- Planning History
- Zoning and Council policy
- Visual impact and residential amenity
- Public realm
- Water Services, Drainage and Flood Risk
- Road, Parking and Access
- Screening for Appropriate Assessment
- Screening for Environmental Impact Assessment

Background and Context

The application site has been the subject of numerous applications to alter an existing permission (SD09A/0055) on the site. That permission has now withered, and the subject application relates to a new (albeit similar) development. Of note from the planning history is the following pattern of assessment set by SDCC for development on this site (for developments of this type):

- Height should conform to that of the original permission (as amended) with heights of no more than 7.65m above ground.
- The attic space should be a storage space rather than habitable room;
- Additional height at this site would render such development to be visually obtrusive and would seriously injure the visual amenity of established residential development in the vicinity.

It is noted also that previous applications – even recent applications – have been restricted in scope to alterations to an existing permission dating from 2010, which itself was assessed under the South Dublin County Council Development Plan 2004 – 2010. The present application shall be assessed under the current County Development Plan. As noted below, there are some significant changes to green infrastructure policy which militate against infill development on this site (See ‘Public Realm and Ecology’ below).

The application is thus assessed as a new application; there are, however, some issues for which the proposed development is substantially similar to the previously permitted scheme, and where there is no new policy of relevance. These are dealt with summarily.

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Planning History

Under SD20A/0016 **permission was granted** for change of house type of the approved dwellings to 4 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 semi-detached, 2 bedroom with study dwellings and associated works under SD09A/0055 and SD11B/0236. **Final Grant date was 6th August 2020.** Condition 2 of SD20A/0016 states that the permission shall expire upon the expiry of permission SD11B/0236, subject to any grant of extension of duration of that permission. Permission SD11B/0236 expired on 9th Feb 2022. **This means that permission SD20A/0016 has expired. It should be noted that the description of development for SD20A/0016 refers to a change of house type of the approved dwellings under SD09A/0055 and SD11B/0236.** Therefore at the time SD20A/0016 was being assessed there was a live permission on the site.

Zoning and Council policy

The site is subject to zoning objective 'RES' to protect and /or improve residential amenity. A residential use is permitted in principle within this zoning. Infill development is therefore acceptable subject to the other relevant policies and objectives of the South Dublin County Development Plan 2016 – 2022, and in particular section 11.3.2 (i) which relates to infill development.

Visual Impact and Residential Amenity

The proposed development comprises 4 no. semi-detached dwellings provided around a central parking courtyard containing 8 no parking spaces. The existing site has a natural river bank and large open area next to the existing cottage. The proposed development would remove the existing bridge and provide a new bridge nearer the centre of the site, to the south of the existing. The houses would face east to the river, accessed primarily by pedestrian paths from the central parking court. Houses would be separated from the rear boundary by between 6.7 and 9.3 metres, with separation of the first floor from houses to the rear of approx. 18 – 22 metres (the Site Layout Plan shows longer separation distances but the angles used are inappropriate and result in longer distances being shown).

Overlooking and Privacy

Separation distances to the rear party boundary and the houses to the rear are not ideal. The rear elevations of the proposed dwellings have opaque windows serving the en-suite and a high level window serving Bedroom no.2. As per previous Manager's and Chief Executive's Orders, this general arrangement has been considered acceptable previously, although if granted a **condition** should be attached to ensure all bathroom windows on the rear elevation are fitted with opaque glazing.

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Private Amenity Space

It is unclear that the private amenity spaces comply with the County Development Plan standards of 60sq.m. for a 3-bedroom house, when rear returns are taken into account. Of particular concern is Unit 3. Flexibility can be applied to infill schemes on constrained sites but, as the proposed layout does not appear to take into account the natural constraints of the site, and has thus not been limited to operating within those constraints, it is considered that the potential inadequacy of rear garden space should be listed as a **reason for refusal** in addition to more substantial reasons.

Internal Residential Accommodation

At 158 sq.m. each, the proposed units far exceed the minimum sizes recommended in the 2007 'Quality Housing for Sustainable Communities' guidelines and the SDCC County Development Plan. Each house is laid out with a living room and separate open-plan kitchen/dining/living area at ground floor, with 3 bedrooms, a bathroom and an en-suite at first floor level, and attic access via stairs. The proposed layouts are acceptable.

Visual Impact

The height and siting of the proposed units matches above ground those previously permitted and maintains the heights established in recent council decisions. The **site layout plan shows the ground level being raised however and finished floor levels being 1-2 metres above the existing ground level.** This detail is not apparent from the original permission drawings. The applicant could clarify this matter by **additional information** but, as there are other issues with this development, it should be listed as a **reason for refusal**.

Boundary Treatment

Several third parties note that no boundary treatment is apparent from the plans. The existing boundary is labelled as remaining in the plans. Elevation drawings and a site section would be required by **additional information** or **condition** to confirm and/or agree an appropriate boundary treatment. However, as there are other issues with the development, this can be listed as a **reason for refusal**.

Public Realm

The Public Realm Department has reviewed the proposal and provided the following comments, recommending a **request for additional information**:

Main Concerns:

- Lack of detailed landscape proposals for the proposed development

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- lack of SuDS (Sustainable Drainage System) shown for the proposed development
- proximity of development ($\leq 10\text{m}$) to the Whitechurch Stream located along the eastern boundary of the site.

Landscape Plan

The applicant has shown proposed planting on the submitted proposed site layout drawing, however this lacks sufficient information in terms of proposed landscaping and as such is not deemed suitable in terms of a landscape layout and is not acceptable to the Public Realm Section. A detailed landscape scheme along with a landscape rationale shall be provided which helps to integrate the development into the local landscape and through suitable planting provides visual screening, mitigation of negative visual effects and which improves local biodiversity and green infrastructure links. The applicant should propose native species where possible to encourage biodiversity and support pollinators within the landscape. The landscape plan and associated planting plan should be prepared by a suitable qualified landscape architect.

SuDS and Green Infrastructure

A SuDS strategy should be developed for the proposed development which takes account of quantity, quality, and amenity issues. The design of SuDS features is required to be of high quality to achieve a multifunctional space for amenity, biodiversity and surface water management. The proposed SuDS features should aid the maintenance of the existing greenfield runoff rates or potentially reduce the amount of surface water entering the piped surface water system.

The current proposed drainage system needs to be developed further in order to sustainably manage surface water through a natural hydrological regime or SUDS scheme within the development. The philosophy of SUDS is an integrated multi-disciplinary approach which locally addresses water quality, water quantity, and provides for amenity and habitat/biodiversity enhancement. SuDS that should be considered for the SHD development include:

- Bio retention systems
- Infiltration systems
- Tree pits
- Channel rills
- Green area detention basins
- swales

Were possible in addition to the SUDS features proposed the applicant should provide the following:

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- Demonstrate how the proposed natural SUDS features will be incorporated and work within the drainage design for the proposed development. Revised proposals to be provided by the applicant in this regard. Response should include revised layout and drawings.

Proximity of Development to the Whitechurch stream along Eastern Boundary

The proximity of the proposed buildings to the Whitechurch stream along the eastern boundary of the subject site contravenes Planning Policy G3 Objective 2 of the CDP 2016-2022 - G3 Objective 2; "To maintain a biodiversity protection zone of not less than 10 meters from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities." The applicant should clearly show on a drawing a 10m set back from any proposed building to the top of the bank of this water body. Response should include revised layout and drawings.

The report recommends 3 items for **additional information** in relation to each of the above.

In relation to landscape design and SUDs, this is considered sufficient. In relation to a 10m riparian buffer strip, see a more detailed assessment below.

Ecological Impact

Policy G3 of the South Dublin County Development Plan 2016 – 2022 reads as follows:

"It is the policy of the Council to promote the natural, historical and amenity value of the County's watercourses; to address the long term management and protection of these corridors and to strengthen links at a regional level."

Objective 2 reads as follows:

"To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network."

Objective 5 reads as follows:

"To restrict the encroachment of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to: the

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prevention of pollution of the watercourse, the protection of the river bank from erosion, the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development.”

Policy G6 underlines similar policies in urban areas.

Policy IE2 Objective 9 also refers to G3 Objective 2 and reads as follows:

“To protect water bodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, within the County from inappropriate development. This will include protection buffers in riverine and wetland areas as appropriate (see also Objective G3 Objective 2 – Biodiversity Protection Zone).”

Additionally, section 11.6.1 (iii) Sustainable Urban Drainage Systems (SUDS) of the County Development Plan, reads as follows:

“Watercourses should remain open in their natural valley and culverting shall be confined to road crossings. In exceptional circumstances and at the discretion of the Planning Authority, approval may be given to install a culvert within a development where it is demonstrated that this is the most appropriate design response based on site specific constraints/circumstances.”

The proposed development would include the filling in of the natural bank on the site, and the erection of a retaining wall, converting the stream into a channel at this location. The existing stream rises to a bank which has been allowed to grow wild.

The applicant has provided an Ecological Impact Assessment. The report categorises the stream as open but “overgrown with herbaceous vegetation” and describes the species grown along the bank as brambles, nettles, cleavers and bindweed. The Assessment notes that the site is quite rich in plant species “for a suburban site”, but that the species are all widespread and common in Dublin City.

The report notes the following predicted impacts during construction: pollution of the watercourse, impacts on birds, and spread of invasive species. There is also the potential for pollution of waterbodies after construction, relating to the inadequate capacity of Ringsend WWTP. In-combination effects are noted with two other minor applications along the stream.

The EcIA proposes mitigation measures under 3 headings:

- Pollution prevention measures during construction
- Protection of trees and birds during site clearance works

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- Management of invasive species

Riparian Buffer Strip

The County Development Plan provides for a minimum 10m riparian buffer strip from the top of the bank of all watercourses in the county. Furthermore, all such areas are to be protected from inappropriate development, and watercourses should remain open in their natural valley. The combined policies G3, G6 and IE2, relating to Green Infrastructure and surface water / groundwater, point towards a minimum riparian buffer strip to be provided along any watercourse and not to be developed upon.

The proposed development would completely reconfigure the bank of the watercourse and subject it to significant change as part of the development, which intrudes into the 10m strip mentioned in the policy.

The most obvious remedy is to shift the development away from the watercourse; however, due to the shape of the site, the development is already close to the west boundary and to do so would compromise private amenity space and the privacy of adjoining plots.

Conclusion

Notwithstanding grants of permission dating from 2010, the proposed development would intrude upon the banks of a watercourse, inside the 10m riparian buffer strip provided for in council policy. Owing to the size of the site, it is unlikely that a development of the scale and form proposed could fit onto the site without compromising either the watercourse or the 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 policy in the County Development Plan, and would have a serious adverse impact on the bank of the watercourse in that it would remove that bank and replace with a retaining wall. The development would therefore be a material contravention of the County Development Plan and permission should be **refused**.

The other issues raised by the Public Realm Department could be dealt with by way of additional information, but as there are other issues with the development, they can be listed as **reasons for refusal**.

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Water Services, Drainage and Flood Risk

Water Services and Irish Water have both assessed the proposal and each has sought additional information for the submission of drainage layouts. In addition to the issues raised above, this can be listed as a **reason for refusal**.

Water services has additionally sought the following:

1.1 The applicant has not proposed any SuDS (Sustainable Drainage Systems) features for the proposed development. The applicant is required to submit a drawing in plan and cross sectional views clearly showing proposed Sustainable Drainage Systems (SuDS) features for the development. Examples of such SuDs devices but not limited to are listed below.

- Permeable Paving
- Soakaway
- Grasscrete
- Green Roofs
- Planter Boxes
- Rain Gardens

1.2 The applicant has not submitted surface water drainage plans for the proposed development. The applicant is required to submit a drawing showing existing and proposed surface water drainage layouts up to and including the point of connection to the public surface water sewer. The drawing shall include the location of all Aj's, manholes, pipe size, material type and direction of flow. The drawing shall clearly show that the foul and surface water systems are discharging to separate pipe networks.

1.3 If a soakaway is proposed then submit a report showing percolation test results as per BRE Digest 365 Standards. Submit a drawing in plan and cross-sectional view showing design details of proposed soakaway as per BRE Digest 365 Standards.

1.4 Submit a drawing showing the setback distance from foundation of boundary wall to top of bank of Whitechurch Stream. Note a setback distance is required as per County Development Plan and Greater Dublin Regional Code of Practice for Drainage Works.

1.5 Submit a Section 50 report to the OPW (office of Public Works) and obtain approval from the OPW to carry out bridge or other works over Whitechurch Stream.

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Lack of SUDs can be listed as a **reason for refusal**.

A third party has raised the potential issue of flood risk arising from works near the watercourse. As described above, these works are considered to be in contravention of council policy as it relates to water management and water courses. In relation to flood risk, however, the Environmental Services Department has additionally advised that works at this section of the stream are not expected to risk additional flooding downstream, and this has been investigated as part of flood alleviation works in the area.

Roads, Parking and Access

8 no. car parking spaces are provided in an arrangement which is identical to previous applications for permission. The Roads Department has stated no objection subject to standard conditions.

Screening for Environmental Impact Assessment

Having regard to the modest nature of the proposed development, and the distance of the site from nearby sensitive receptors, there is no likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Screening for Appropriate Assessment

See below tables for appropriate assessment.

Table 1: Description of the project and site characteristics

Planning File Reference	SD22A/0069
Brief description of the project	See above.
Brief description of site characteristics	See above.
Application accompanied by a NIS Y/N	No.

Table 2: Identification of European Sites which may be impacted by the project

European Site	List of Qualifying Interest/ Special Conservation Interest	Distance from proposed development (m/km)	Connections (Source- Pathway- Receptor)	Considered further in screening Y/N
Glenasmole Valley SAC	3 Qualifying Interests CO001209.pdf (npws.ie)	7.2 km	None Stated.	No.
Wicklow Mountains SAC	13 Qualifying Interests ConservationObjectives.rdl (npws.ie)	9 km	None stated.	No.

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Wicklow Mountains SPA	2 Qualifying Interests - Merlin (Falco columbarius) [A098] Peregrine (Falco peregrinus) [A103] CO004040.pdf (npws.ie)	9 km	None stated.	No.
South Dublin Bay SAC	4 Qualifying Interests ConservationObjectives.rdl (npws.ie)	> 15km	Downstream of site via watercourses.	Yes.
North Dublin Bay SAC	See applicant's report.	> 15km	Downstream of site via watercourses.	Yes.
South Dublin Bay and River Tolka Estuary SPA	14 Qualifying Interests ConservationObjectives.rdl (npws.ie)	> 15km	Downstream of site via watercourses.	Yes.
North Bull Island SPA	See applicant's report.	> 15km	Downstream of site via watercourses.	Yes.

Table 3: Assessment of Likely Significant Effects

Identify all potential direct and indirect impacts (alone or in combination) that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project:	
Likely Impacts	Possible Significance of Impacts (duration, magnitude etc.)
Construction phase <ul style="list-style-type: none"> Spills of oil or other toxic chemicals. 	No significant impacts to a European Site / negligible chance of "likely significant impacts".
Operational phase <ul style="list-style-type: none"> Foul Water via Ringsend WWTP Surface water pollution from site to watercourse. 	<p>Applicant states that foul water treatment at Ringsend WWTP is currently sufficient.</p> <p>Applicant states that surface water is generally considered to be free of pollutants and will not pose a pollution risk to the watercourse.</p> <p>The applicant has failed to take into account pollution interception from areas for the parking of motor vehicles.</p> <p>However, as this would be included in any development prior to a grant of permission,</p>

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	and not purely as a mitigation measures, it is considered that there are no potentially significant impacts arising from groundwater pollution during the operational phase.
In-combination/Other	The applicant argues that there is no risk as there are no significant impacts anticipated from this site.

Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?
No

Table 4: Screening Determination Statement

Assessment of significance of effects:		
Describe how the proposed development (alone or in-combination) is/is <u>not likely</u> to have <u>significant</u> effects on European site(s) in view of its conservation objectives.		
Conclusion:		
	Indicate (X)	Recommendation
It is clear that there is no likelihood of significant effects on a European site	X	The proposal can be screened out. Appropriate assessment not required.
It is uncertain whether the proposal will have a significant effect on a European site		Request further information to complete screening Request NIS Refuse permission
Significant effects are likely		Request NIS Refuse permission
Completed by	SDCC Executive Planner	
Date	20 th April 2022	

Conclusion

The proposed development would materially contravene the policy of the South Dublin County Development Plan 2016 – 2022 as it relates to:

- Green infrastructure
- Surface water and ground water
- Sustainable urban drainage systems,

As contained in policies G3, G6, IE2 and section 11.6.1 (Water management). Though the application has been screened for its impact on European sites downstream, it is considered that

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the development would have significant adverse impacts on the bank and riparian buffer strip of the watercourse by virtue of the removal of the bank, replacement with a retaining wall and raising of the ground above to provide for residential development at the water's edge. The development would also therefore compromise the natural amenity of the area and would not be in accordance with council policy on biodiversity, water courses or water management. Additionally there are other issues relating to private amenity space, The development would therefore not support the proper planning and sustainable development of the area.

Recommendation

I recommend that a decision to Refuse Permission be made under the Planning & Development Act, 2000 (as amended) for the reasons set out in the Schedule hereto:-

SCHEDULE

REASON(S)

1. Ecology and Water Management.

(a) The proposed development would intrude upon the banks of a watercourse, inside the 10m riparian buffer strip provided for in council policy. Owing to the size of the site, it is unlikely that a development of the scale and form proposed could fit onto the site without compromising either the watercourse or the 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 policy and water management policy in the South Dublin County Development Plan 2016 - 2022, and would have a serious adverse impact on the bank of the watercourse in that it would remove that bank and replace with a retaining wall - such banks are protected under the County Development Plan as per Policies G3 and IE2, and further supported in policy G6 and section 11.6.1 (ii) of the Plan . A setback is also required as per the Greater Dublin Regional Code of Practice for Drainage Works. The development would therefore be a material contravention of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

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

2. Residential Amenity.

The applicant has failed to show that the development would not be seriously injurious to the residential character and amenity of the area, including the visual amenity of adjoining sites, and the potential residential amenities of the subject site, in relation to the following

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matters:

- Private Amenity Space may not meet the minimum standards provided for in the South Dublin County Development Plan 2016 - 2022;
- The raising of ground levels on the site risks overlooking adjoining sites and a consequent loss of privacy, not specified in previous permissions from 2009 and 2011;
- Proposed boundary treatment to the rear not shown to be adequate for protected privacy. No detail of the boundary treatment has been provided.
- The Landscape Plan lacks sufficient detail in relation to planting.

The proposed development would therefore seriously injure the amenities of property in the vicinity and contravene the proper planning and sustainable development of the area.

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REG. REF. SD22A/0069

LOCATION: 'Capri', Whitechurch Road, Rathfarnham, Dublin 14.



Jim Johnston,
Senior Executive Planner

ORDER: A decision pursuant to Section 34(1) of the Planning & Development Act 2000 (as amended) to Refuse Permission for the above proposal for the reasons set out above is hereby made.

Date:

21/4/22



Eoin Burke, Senior Planner