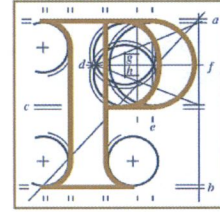


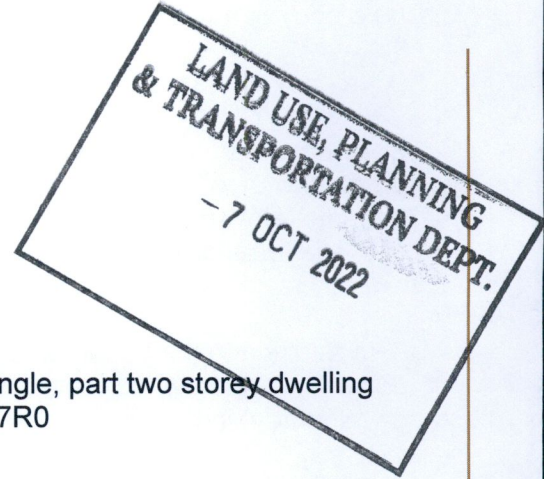
**Our Case Number:** ABP-314756-22

**Planning Authority Reference Number:** SD22A/0304



An  
Bord  
Pleanála

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24



**Date:** 06 October 2022

**Re:** Demolition of the existing garage and the construction of a part single, part two storey dwelling  
The Muddies, Whitechurch Road, Rathfarnham, Dublin 16, D16Y7R0

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

**Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.**

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, **within a period of 2 weeks beginning on the date of this letter, the following documents:-**

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure,

Teil	Tel	(01) 858 8100
Glaio Áitiúil	LoCall	1890 275 175
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Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhride	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,
- (viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,
- (ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,
- (x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,
- (xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:- Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

- a) Certified Manager's Order,
- b) the site location, site layout maps, all plans and
- c) particulars and all internal reports.
- d) details of any extensions of time given in respect of previous decisions.

#### **Copies of I-plan sheets are not adequate.**

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a **period of 4 weeks beginning** on the date of this letter. Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### **Contingency Submission**

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act (Development / Supplementary Development Contributions) including any special condition which might be appropriate

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# MARSTON

## PLANNING CONSULTANCY

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

30<sup>th</sup> September 2022

AN BORD PLEANÁLA	
LDG-	057844-22
ABP-	
04 OCT 2022	
Fee: €	220
Type:	CHQ
Time:	
By:	Courier

Our ref. 22016

**Re: Planning and Development Act 2000 (as amended) and the Statutory Regulations made thereunder, First Party Appeal by John and Sheila Murphy against the decision of South Dublin County Council to refuse permission for development at this site at The Muddies, Whitechurch Road, Rathfarnham, Dublin 16, D16 Y7R0. The development will consist of the demolition of the existing garage and the construction of a part single, part two-storey three bedroom detached dwelling house in the side garden of the existing two storey dwelling (The Muddies), with associated rooflights; as well as the creation of a new vehicular entrance and gates to serve the existing dwelling with the existing vehicular entrance serving the new dwelling. The development will also include the installation of a new waste water treatment plant as well as all ancillary and site development works; and the external insulation and painted rendering of the existing house.**

**South Dublin County Council Reg. Ref. SD22A/0304**

**Date of decision to refuse permission from South Dublin County Council: 7<sup>th</sup> September 2022**

**Four week period for making an appeal: on or before end of 4<sup>th</sup> October 2022**

Dear Sir / Madam,

We, Marston Planning Consultancy, 23 Grange Park, Foxrock, Dublin 18 are instructed by the applicants and the first party in this case John and Sheila Murphy, The Muddies, Whitechurch Road, Rathfarnham, D16 Y7R0 to lodge this first party appeal on their behalf against the above decision of South Dublin County Council to issue a refusal in relation to the subject proposal which relates to the demolition of the existing garage and the construction of a part single, part two-storey three bedroom detached dwelling house in the side garden of the existing two storey dwelling (The Muddies), with associated rooflights; as well as the creation of a new vehicular entrance and gates to serve the existing dwelling with the existing vehicular entrance serving the new dwelling.

The development will also include the installation of a new waste water treatment plant as well as all ancillary and site development works; and the external insulation and painted rendering of the existing house (as set out in the statutory notices submitted with the planning application).

In compliance with the statutory regulations we enclose herewith a cheque in the sum of €220 as the appropriate appeal fee in this instance. A copy of the decision from the Planning Authority also accompanies this appeal.

We confirm that we have inspected the subject site and we have also examined the planning reports that gave rise to this particular decision by the Planning Authority, and we note that no third party objections were made in relation to this application. Our grounds of appeal and the full reasons and considerations upon which these are based are set out below. This first party appeal should be read in conjunction with the comprehensive set of documents, plans and particulars submitted to South Dublin County Council as part of planning application Reg. Ref. SD22A/0304.

### 1. Overview

We respectfully submit that the nature and reasoning behind the decision of the Planning Authority in this instance must be clearly questioned. The First Party has set out herein the main grounds of the appeal and have enclosed supplementary material in the form of a revised site layout plan prepared by DMVF Architects which clearly identify the ability to amend the front boundary wall. We can also confirm that our client has been

in contact with the owner of the laneway to the east of their property, and they have confirmed that they are in ownership and our client is willing for a condition to be attached to the permission that ensures for the shrubbery to be cut back to facilitate passing of cars, if ever they were required.

It is also notable that approximately half-way along the laneway, which is the sole reason for refusal, and which the Council have any concern over, is an access to the property (Neadóg) the ownership of whom is also in ownership of the laneway. This access widens the laneway to provide an informal pull-in bay to facilitate passing traffic on the 44m length of the laneway that does not facilitate cars to pass currently.

We respectfully submit that this is the sole reason for refusal, and states:

*"This proposal provides for additional traffic movements on a substandard laneway off Whitechurch Road, which lacks pedestrian and lighting facilities, and would set an undesirable precedent for further similar developments in the area. The proposed development would represent an intensification of use of the substandard road network and would endanger public safety by reason of traffic hazard. Due to said endangerment to public safety and traffic hazard, the development would contravene the 'RES' land-use zoning objective for the area under the South Dublin County Development Plan 2022 - 2028, which reads, 'To protect and/or improve residential amenity.' Thus the proposed development would contravene the proper planning and sustainable development of the area."*

We respectfully submit that this appeal is focused on addressing the reason for refusal, and will set out the due and reasonable grounds for overturning this decision having regard to the residential zoning of the site, and the ability to gain safe access to and from the Whitechurch Road, and to the application site, without generating a traffic hazard.

We respectfully submit that the decision of the Planning Authority is inherently flawed. Prior to addressing the decision of the Council, it is important to set out the context of the application, for the clarity of the Board.

## **2. Description of the subject site and vicinity**

The appeal site of 0.245ha. is located at "The Muddies", and is located to the south of a private laneway off the western side of Whitechurch Road in Rathfarnham. We draw An Bord Pleanála's attention to the fact that the red line associated with the new application (Planning Reg. Ref. SD22A/0304) is larger than the previous application under Planning Ref. SD21A/0303 and now includes the existing dwelling and its ancillary garden area (see below).



Aerial view of the appeal site (Source: Google Maps)

The existing two storey dwelling with dormer style roof and window to the side, is accessed from the north-east of the site off the private laneway, which is partly owned at this point by the first party to the centre of the laneway, and contains a hard core parking area to the front and to the east side of the house, with a single storey garage (to be demolished) located to its immediate south-east. The house has a large extensive rear garden that contains its existing waste water treatment system to the south-west of the existing house. The design and style of the detached house has a pitched roof over and an overhanging roof over wooden columns to the front, with a brick finish at ground floor, and a smooth rendered finish at first floor level. The large site is enclosed by a high evergreen hedge to the south-east and south-west; as well as further planting to the west.



*Front elevation and garage to be demolished of The Muddies from private laneway*

The site is bound by an existing dwelling of similar design and its associated amenity area to the north-west; by the Whitechurch National School, and a detached single storey dwelling (Neadóg) to the north and north-east. A large detached dwelling (Glenwood) and its grounds bounds the site to the east and south-east with its access off the private laneway located c. 20m set-back from the Whitechurch Road junction and with a significant pull in area to its front gates. A partly constructed dwelling is located to the south-west of the site. The Edmondstown Golf Club bounds the laneway at its end to the west.

It is notable that the school is not accessed from the laneway but is accessed from the Whitechurch Road some 110m north of the access onto the private laneway that provides access to The Muddies. Two other detached dwellings have their individual access points onto the Whitechurch Road in between these access points.

The private laneway provides access to only four houses in total. Apart from the partly constructed house at the end of the laneway that sits to the south-west of the site, none of the other houses have potential to be substantially developed, and due to the Whitechurch stream that runs parallel to the western side of the Whitechurch Road; and the Edmondstown Golf Club to the west; the laneway offers little potential for facilitating new development both in the short or long term. We respectfully submit that the Roads Report and decision of the Planning Authority are in our considered opinion misguided on this issue.

The laneway is bound by planting either side and it is notable that at the time of the application, it was overgrown and the planting had not been pruned back as is normally the case. It is notable that currently cars from only two houses access across the entire length of the narrowest length of the laneway. We note that the Roads Report on the laneway makes no reference to this, the length of the part of the laneway from the entrance to Glenwood and that of our client's property; the width of this laneway, and the fact that there is a natural pull in lay-by at the entrance into Neadóg that facilitates two cars, in the unlikely event that they meet on this short length of laneway that they can pass easily and in a safe manner.

The laneway is surfaced in compacted gravel that with its dimensions ensures that it limits speeds to being very low along this stretch of roadway. We note that the existing access point from the subject property is deficient in terms of sightlines to the east and this will be addressed elsewhere in this appeal via our alternative

scheme for this front boundary wall (refer to Drawing PL02 attached). It is notable that the laneway widens considerably once at our client's property.

We draw An Bord Pleanála's attention to the fact that there is no evidence or history of the width or forward visibility on the laneway having resulted in any accidents.



*View along private laneway looking east towards the east*

The Whitechurch Road has a speed limit of 50kph to the south; and 30kph to the north of the entrance to the private laneway. Whitechurch Road is demarked by a single white line that does not facilitate passing, and includes a speed bump some 30m to its south.

The site is subject to zoning objective 'RES' within the South Dublin Development Plan 2022-2028 that came into effect in August 2022, and has the objective '*To protect and/or improve residential amenity*'.

### **3. Nature and extent of the proposed development**

The proposed development seeks the demolition of the garage associated with the existing dwelling within the site. It is proposed to replace the garage with a new part one and part two storey, 3 bedroom dwelling within the side garden of the existing dwelling.

The new dwelling is designed in two parts with its side elevation sitting parallel to the side elevation of the existing house, and its front gable of the two storey element sitting in alignment with the front elevation of the existing dwelling. The distance between the existing and proposed dwellings has been increased under this application.

The ground floor of the new dwelling includes an entrance hall off which there is the master bedroom and a living room within the ground floor of the two storey element, and a large open plan kitchen and living space within the flat roofed single storey element. There are two double bedrooms at first floor level, each with ensembles.

The overall site will be roughly split into two with the existing entrance forming the new vehicular entrance and gateway to the new dwelling. The existing dwelling will be served by a new entrance and gateway off the private laneway that will be created to the west of the laneway frontage. Each of the dwellings will be served by two car parking spaces.

A new onsite waste water treatment facility is proposed for the new dwelling. Full details of this, and the system proposed were submitted with the planning application. The system is designed to be at least 10m away from the existing system serving the existing dwelling, and an adequate distance to the boundary of the site, and we note that there were no concerns raised by the Planning Authority by this or any other element of the new dwelling.



### *Proposed waste water treatment system*

The new application includes the provision of a new on-site waste water treatment system to serve the new dwelling. The new system has been designed to comply with the EPA Code of Practice June 2021. The proposed location of the system has had regard to any nearby groundwater source, the groundwater as a resource and the vulnerability of the underlying groundwater as well as the existing adjoining dwelling and its associated on site waste water treatment system.

We refer An Bord Pleanála to the reports and drawings (where were submitted with planning application) relating to the proposed on site waste water treatment system prepared by Trinity Green Environmental Consultants, the Torque Consultancy drawing, the report prepared by O'Reilly Oakstown Environmental Report which identifies that a BAF 6 PE Wastewater Treatment system is proposed and appropriate for the new dwelling.

### *Vehicular Entrance arrangements new entrance to existing dwelling*

The applicant/First Party and the design team has carefully considered the reasons attached to the refusal of the previous development proposals at the subject site (Reg. Ref. SD21A/0303). The current proposal provides for a new vehicular entrance for the existing dwelling. The new dwelling will utilize the existing vehicular entrance within the subject site. The current proposals have been the subject of review and assessment by Martin Peters and Associates Consulting Engineers, full details of the compliance of the proposals with DMURS, sight line requirement and compliance with the Development Plan are set out in the Technical Note which was submitted as part of the planning application.

As an alternative solution to the sightlines at the entrance into the new dwelling we have included with this appeal a drawing with a revised front boundary wall at the entrance to the new dwelling which further improves the sightline of this existing entrance. This provides a net planning gain in terms of access onto the private laneway in terms of traffic safety. All other traffic and access considerations will be addressed under the grounds of appeal.

### **Appeal Sites Planning Context - South Dublin Development Plan 2022-2028**

We note that under the new County Development Plan, developments, such as this within the side garden of an existing house, must be considered having regard to section 13.5.8 of the Plan that relates to 'Corner / Side Garden Sites'.

We can confirm the following in relation to the current proposal (now on appeal to An Bord Pleanála ):

- The site is of sufficient size to accommodate the additional dwelling, and that an appropriate set-back has been achieved from the existing dwelling on site. It is noteworthy that this has increased from 2m under the refused 2021 application, to 3m under the current application. The separation distance, and change to the elevational treatment and fenestration arrangement has ensured that the visual amenity of the area, and the adjoining house is maintained;
- As this is not a corner site there is no requirement to have a dual frontage to the design of the new house;
- The new house is designed and sited so that its primary front elevation created by the gable ended two storey element matches that of the front building line of the existing house, with the single storey element of the new house, set-back and angled to run in parallel with the boundary to the east in a dog-leg type formation.
- The architectural language of the new infill house has been modified to address the comments of the planning officer under the previous application (Planning Reg. Ref. SD21A/0303). As well as being positioned further away from the existing house, the use of vertical wood cladding, and change to the front fenestration treatment at first floor, plus the proposed external insulation of the existing house, and its finishing in a painted render, and thus removing its brick finish at ground floor, will enable the new house to be visually integrated with that of the existing house and local area that possesses a wide variety of house types and designs. The contemporary and innovative approach to the design ensures that it responds to the local context.
- Both the new and existing house will have significantly above the minimum private open space requirements that are south facing; with the new house meeting all other relevant standards of the County Development Plan.



The appropriateness of the revisions to the design, whilst subtle, are clear in ensuring that the new house meets the required design standards for side garden developments such as this, as is evident below.

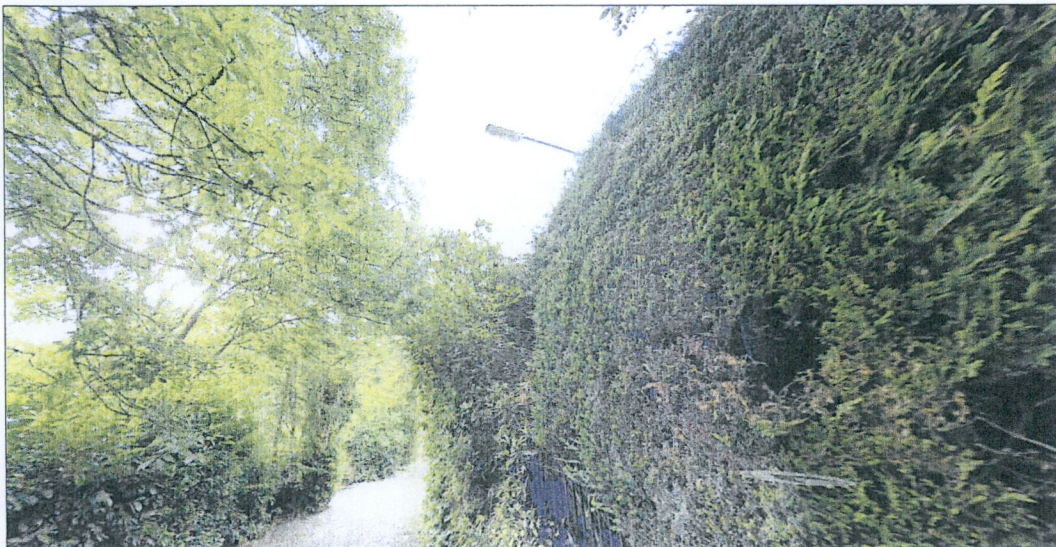
#### 4. Grounds of appeal

The full grounds of appeal together with the arguments, reasons and considerations upon which these are based are set out below. For clarity and ease of reference we propose to deal with each individual element of the 1 no. reason for refusal as stated by South Dublin County Council and outline our response to each in turn under a series of headings as presented below.

*"This proposal provides for additional traffic movements on a substandard laneway off Whitechurch Road, which lacks pedestrian and lighting facilities, and would set an undesirable precedent for further similar developments in the area. The proposed development would represent an intensification of use of the substandard road network and would endanger public safety by reason of traffic hazard. Due to said endangerment to public safety and traffic hazard, the development would contravene the 'RES' land-use zoning objective for the area under the South Dublin County Development Plan 2022 - 2028, which reads, 'To protect and/or improve residential amenity.' Thus the proposed development would contravene the proper planning and sustainable development of the area".*

#### Response

We respectfully submit that the reason and rationale for this reason must be considered both in its entirety as well as being broken down to its different elements. Firstly, the Planning Authority claim that the laneway lacks any lighting facilities. This is not correct as the photograph clearly demonstrates below. The light is located approximately half way along the laneway between the entrance into Glenwood and the application site. This is only a distance of 55m from the junction with Whitechurch Road. There are also lights at the entrance to Glenwood. We respectfully submit to the Board that there is more than adequate lighting along the laneway, and this does not warrant as being cited as a reason for refusal in this instance (see light below).



View of light along laneway that provides more than adequate lighting of the laneway

The matter of the lacking of pedestrian facilities is in our question also open to questioning. This laneway both now and in the future will only be subject to very low levels of traffic. The narrowest part of the laneway is only used to access three homes currently, and its surface and forward visibility ensures that cars usually travel at speeds of no greater than 20kph along the narrowest part of the laneway. Its width allows for a car to pass a pedestrian in a safe manner along the narrowest 45m, with the driveway to Neadóg providing an even safer passing area. The laneway is in daily active use by the occupants of the dwelling, and they are unaware of any incidents along it. The lack of pedestrian facilities along the laneway has not previously, and will not if permission is granted, resulted in a traffic hazard.

The existing laneway is bound by planting either side but is generally wide enough to facilitate two cars to pass with passing areas clearly defined within the laneway. The laneway is surfaced in compacted gravel that with its dimensions ensures that it limits speeds to being very low along this stretch of roadway. Vehicles moving along the laneway do so at such a low speed as to safeguard any cyclists or pedestrians using the laneway.

Furthermore, we note that with the improvement to the sightline proposed under this appeal, and as was suggested under the application, there will be a net planning gain as the access nearest the narrowest part of the laneway will now have more than adequate sightlines in accordance with DMURS.

We also draw An Bord Pleanála's attention to the fact that the existing laneway has been in active use for a significant number of years and that there is no evidence or history of its width having resulted in any accidents or near misses along the laneway. It is also notable that the narrowest stretch of the laneway is only 45m in length. At a point c. 25m from the eastern end there is the access to Neadóg, which also acts, and will continue to act as a pull in area for cars, if they meet on the narrowest stretch of the laneway (see image below), where it widens the laneway by c. 2.5m. If cars were to meet along this 25m stretch then the maximum length of reversing that would be required, is c. 10m in either direction, with clear visibility in both directions.



*View of entrance off the laneway to Neadóg from the west*

If cars were to meet along the western 20m stretch (between Neadóg and the application site) then the maximum length of reversing that would be required, is c. 8m in either direction. Given the low level of traffic on the laneway now, and that would be in the future, there is no potential for it to set an undesirable precedent for the future intensification of the use of the laneway

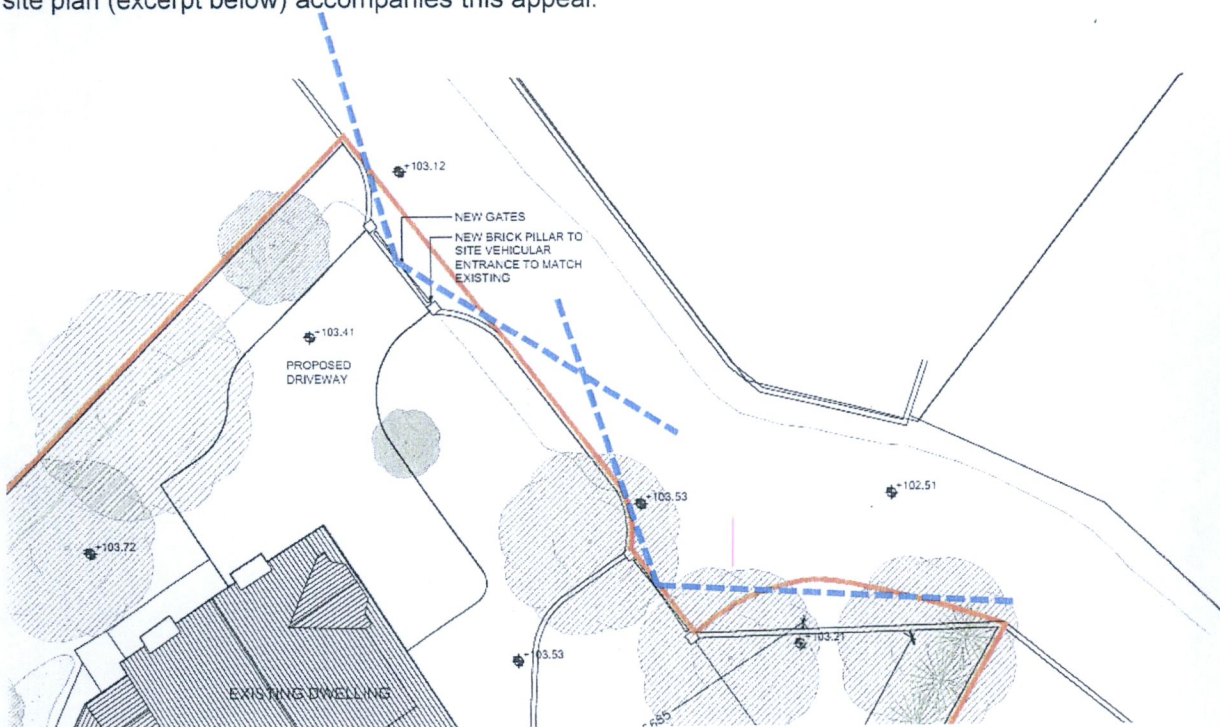
Either side of this narrower stretch the laneway widens to between 6-7m in width, as a result of the proposed alteration to the front boundary of the property, at its western end, and only narrows to 5m beyond that, which is more than adequate for 2 cars to pass. In addition it is noteworthy that at the eastern length of this laneway that there is an entrance to Glenwood that is c. 9m in width that will facilitate a car to pull in to facilitate another car to pass safely by (see photo below). Furthermore, to the east of this access is a bridge of the stream that is c. 6m in width and facilitates two cars to pass each other. We respectfully submit that it is therefore clear that there is no potential for a car having to reverse back onto the public road.



View of entrance off the laneway to Glenwood from the east

We refer the Board to the Technical Note prepared by Martin Peters and Associates Consulting Engineers that was submitted with the planning application and this should be read in full in association with this appeal. This focuses on the sightlines at the entrance to the new house, and the access onto Whitechurch Road.

The proposed new house provides for 2 no. car parking spaces that will gain access to the property via the existing gateway off the laneway. A new gateway will be created to the west to serve the existing house. The technical note, and we would concur, states that the proposal will not generate significant levels of traffic on the laneway which would reasonable be deemed as an "intensification" of use of the laneway that would warrant the refusal of permission. The Technical Note as submitted with the application, and forms an appendix to this appeal, states that the required visibility splay at the two proposed access points is 2m x 14m, although with the low front boundary wall, and realignment of the front boundary wall that even greater visibility splays can be achieved. In accordance with this, and as part of the alternative scheme under this appeal, a revised site plan (excerpt below) accompanies this appeal.



Appropriate visibility splays at access points to new and existing houses

To inform the new application (which is the subject of this appeal) and prepare a robust response to the visibility splays required at the public road an Automated Traffic Counter was installed on Whitechurch Road adjacent to the access onto the private laneway. This indicated that the 85<sup>th</sup> percentile of the recorded vehicle speeds were 41.58kph northbound and 42.30kph southbound, which reflects the transition between the 30kph and

50kph speed limits either side of the entrance on Whitechurch Road. This informed the required sightlines presented with the planning application, and this appeal.

The technical notes goes onto review the visibility splay at the junction of Whitechurch Road and The Muddies and outlines that *"A visibility splay of 2.4m x 40m is available at the junction of Whitechurch Road and The Muddies, which accords with the guidance in DMURS, and thus the level of visibility available is acceptable"*.

We note that the Roads Department in their report on this application consider that DMURS is *"unsuitable in this case as Whitechurch Road is more rural in nature"*. The Roads Department state that Table 5.5 of the TII Geometric Design of Junctions (DN-GEO-03060) would be a more appropriate standard to work off. However, we note that this TII document relates to National Primary and Secondary Roads (and motorways) in Ireland. The Whitechurch Road is a Local Road known as the L4020.

We refer the Board to the fact that the application site is zoned for residential purposes, and the land further south has been subject to a SHD application, which ultimately was refused by the Board (ABP Ref. TA06S.313059), and is one that is transforming to being suburban, which is reflective of the zoning. This application also indicates that any concerns of the granting of permission setting an undesirable precedent is wholly incorrect, as the redevelopment of the lands to the south, will be accessed from the south. The land use planning context is one that supports the use of DMURS in this instance, and based on the speed survey the achievement of the visibility splay of 2.4m x 40m at the junction of Whitechurch Road and The Muddies is appropriate and acceptable in this instance.

Having regard to the above, we refer An Bord Pleanála to the findings of the Traffic Engineers report prepared by Martin Peters and Associates and presented in the form of a "Technical Note" submitted with the planning application, in particular we draw the Boards attention to of the Technical note that provides specialist Engineering advice (which should give comfort to An Bord Pleanála) to grant permission for the proposed development, which states:

*"Moreover, it is our professional view that the existing junction is capable of catering for the additional traffic associated with the provision of one residential dwelling at the site and will not create a road safety hazard at this location or have an adverse effect upon road safety in general."*

***Reference to setting "undesirable precedent for further similar developments in the area" and "Contravention of RES Land Use Zoning and would contravene proper planning and sustainable development of the area"***

The matter of granting permission amounting to an undesirable precedent is not supported in this instance. Having examined the South Dublin County Council Planners Report we note that the Planning Authority had no concerns in relation to the proposed principle, form and design of the proposed development within the subject site. The sole issue relating to the proposal focused on traffic concerns as addressed previously in this appeal.

In terms of the Planning Authorities consideration of the proposed development we note that the Planners Report refers to the positive attributes of the proposal as follows:

In terms of *"Quality Design and Healthy Placemaking"* it is stated that *"The design approach of the new dwelling is more distinctly different from that previously proposed, and the proposed ridge level has been lowered so as not to compete, in design terms, with the existing house. The previous design has been improved in response to comments in the previous Planner's Report. This is noted"*.

Also in terms of *"Housing and Residential Amenity"* the Planners Report states that: *"The proposed dwelling would meet all the guidance provided for under the 'Quality Housing for Sustainable Communities – Best Practice Guidelines' (2007). The private amenity spaces proposed for both the existing and new dwelling would exceed by some way those minimum standards provided for in the South Dublin County Development Plan 2022 – 2028"*.

We respectfully submit that the proposed development is fully in accordance with the RES zoning and the proper planning and sustainable development of the area. The reference to precedent in the refusal of permission arises from the Roads Department report, which is referenced to in the Planners Report. This portion of residentially zoned land is bound by the M50 to the south, and there are no similar private laneways

within this portion of lands, where a side garden type of development such as this, could be enacted upon, apart from the neighbouring house to the west. Where there are houses to the south, it is clear that they will form the redevelopment of the wider lands sometime in the future. The laneway does not offer the ability access such lands and should not be considered as somehow setting any form of unacceptable precedent.

In connection with the current appeal, I would ask the Board to be aware of the reasoning and rationale for the application also. The applicants have lived and raised their family at the Muddies over some thirty-five years, and now wish to downsize to a house that is more suitable for their ageing needs, but want to continue to live in the area. The existing house will become the family home of their daughter, husband and family. These plans have taken on a new urgency with some recent health set-backs, and the need for the younger generation to confirm local school enrolment plans.

## 5. Conclusion

We respectfully submit that the proposed dwelling will result in only a small number of additional traffic movements along this laneway that even along its narrowest length of 45m contains a pull in area to facilitate cars to pass each other in a safe manner. Furthermore, the entrance to Glenwood also provides another passing area that ensures no cars have to reverse onto the public road from the laneway; and the access onto Whitechurch Road is wide enough and has adequate visibility splays to enable cars if they met at the access into the laneway to pass each other safely; and provides cars exiting with adequate visibility splays in both directions, where cars are slowing. In addition, the visibility splays at the new entrance to the existing house, and at the entrance to the new house via the existing entrance are more than adequate from a traffic safety perspective. The alternative design offered under this appeal to set the entire eastern side of the front boundary wall will in effect provide a net planning gain to the proposal, and will certainly not set an undesirable precedent that warrants the refusal of permission in this instance.

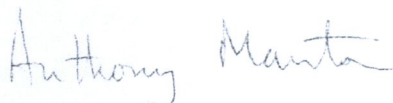
The application is located on residentially zoned lands and would result in a very minor intensification of the use of this private laneway, which contrary to the claim of the Planning Authority is lighted. In considering the application, we note that none of the current users of the private laneway, or indeed the owners of the laneway, sought to lodge an observation with the County Council against the application. It is reasonable to conclude that all are therefore satisfied with such a minor intensification.

We respectfully submit that for all of the above reasons the Board are invited to assess the subject application on its own individual merits and we request to overturn the decision of the Planning Authority and grant permission for this development on the basis that by its nature and extent, the proposal would conform to strategic and statutory planning policy and the provisions of the statutory Development Plan and is therefore fully in accordance with the proper planning and sustainable development of this area including the preservation and improvement of amenities thereof.

We look forward to a favourable decision on this application in due course.

In the event that An Bord Pleanala require access to the appeal site this can be facilitated by contacting this office on 086-3837100.

Yours faithfully,



Anthony Marston (MIPI, MRTPI)  
**Marston Planning Consultancy**

### Enclosures

- Technical note on Access by Martin Peters and Associates (unamended)
- South Dublin County Council decision dated the 7<sup>th</sup> September 2022
- Revised Proposed site plan (Drawing no. PL-02)

John Flood,  
DMVF Architects  
276-278, Lower Rathmines Road  
Rathmines  
Dublin 6

**NOTIFICATION OF DECISION TO REFUSE PERMISSION  
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND  
PLANNING REGULATIONS THEREUNDER**

Decision Order No.	1139	Date of Decision	07-Sep-2022
Register Reference	SD22A/0304	Date	14-Jul-2022

**Applicant:**

John & Sheila Murphy

**Development:**

Demolition of the existing garage and the construction of a part single, part two-storey three bedroom detached dwelling house in the side garden of the existing two storey dwelling with associated rooflights; creation of a new vehicular entrance and gates to serve the existing dwelling with the existing vehicular entrance serving the new dwelling; installation of a new waste water treatment plant as well as all ancillary and site development works; external insulation and painted rendering of the existing house.

**Location:**

The Muddies, Whitechurch Road, Rathfarnham, Dublin 16, D16Y7R0

**Time extension(s) up to and including:**

**Additional Information Requested/Received:**

/

**Clarification of Additional Information Requested/Received:**

/

**DECISION:** Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

**REASON(S)**

1. This proposal provides for additional traffic movements on a substandard laneway off Whitechurch Road, which lacks pedestrian and lighting facilities, and would set an undesirable

precedent for further similar developments in the area. The proposed development would represent an intensification of use of the substandard road network and would endanger public safety by reason of traffic hazard. Due to said endangerment to public safety and traffic hazard, the development would contravene the 'RES' land-use zoning objective for the area under the South Dublin County Development Plan 2022 - 2028, which reads, 'To protect and/or improve residential amenity.' Thus the proposed development would contravene the proper planning and sustainable development of the area.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

**Register Reference: SD22A/0304**

Signed on behalf of the South Dublin County Council.

Yours faithfully,

*Pamela Hughes* 09-Sep-2022  
for **Senior Planner**

## TECHNICAL NOTE (TN01 – Access)

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**John & Sheila Murphy**  
**The Muddies**  
**Whitechurch Road**  
**Rathfarnham**  
**Dublin 16**

Prepared By:



**Richard White** BSc(Hons) MSc CEngNZ MCIHT

CMILT

Checked By:



**Martin Peters** MSc Eng, CEng MIEI, MStructE MCIHT

File Ref.: 221021

Document No.: 221021/TN01

Date: 8<sup>th</sup> June 2022

Revision: Draft 01



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**APPENDICES:**

Appendix A – ATC Data

Appendix B – Drawing Number 221021-SK01

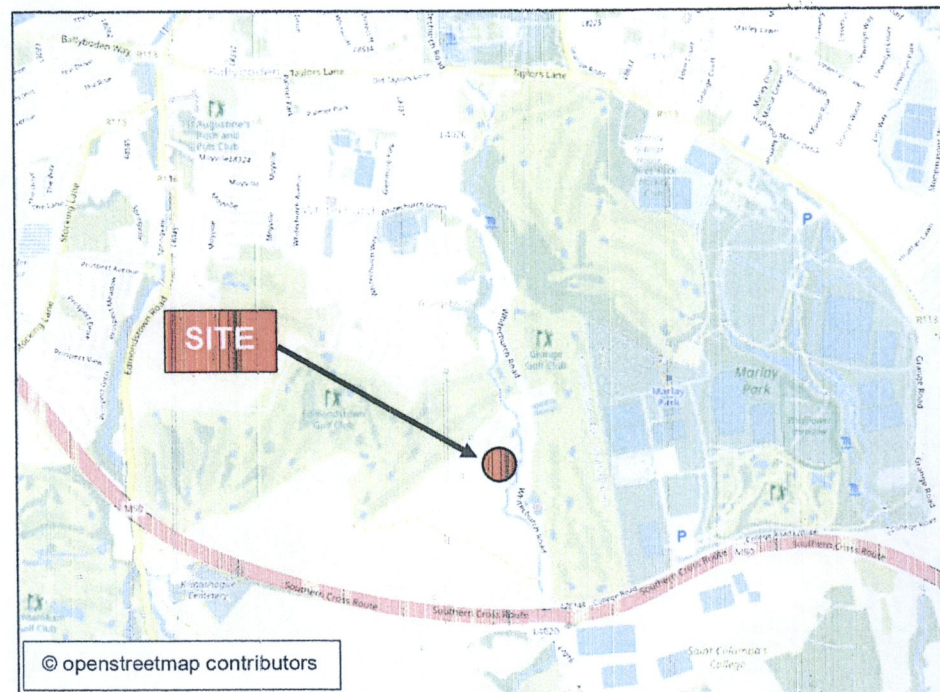
Appendix C – Drawing Number 221021-SK02

## 1.0 INTRODUCTION

### 1.1 Background

1.1.1 This Technical Note has been prepared by MPA Consulting Engineers on behalf of John & Sheila Murphy in relation to the proposed provision of an additional residential dwelling on land located on The Muddies to the west of Whitechurch Road in Rathfarnham, Dublin 16.

1.1.2 The location of the site is shown in **Figure 1.1** below.



**FIGURE 1.1: SITE LOCATION**

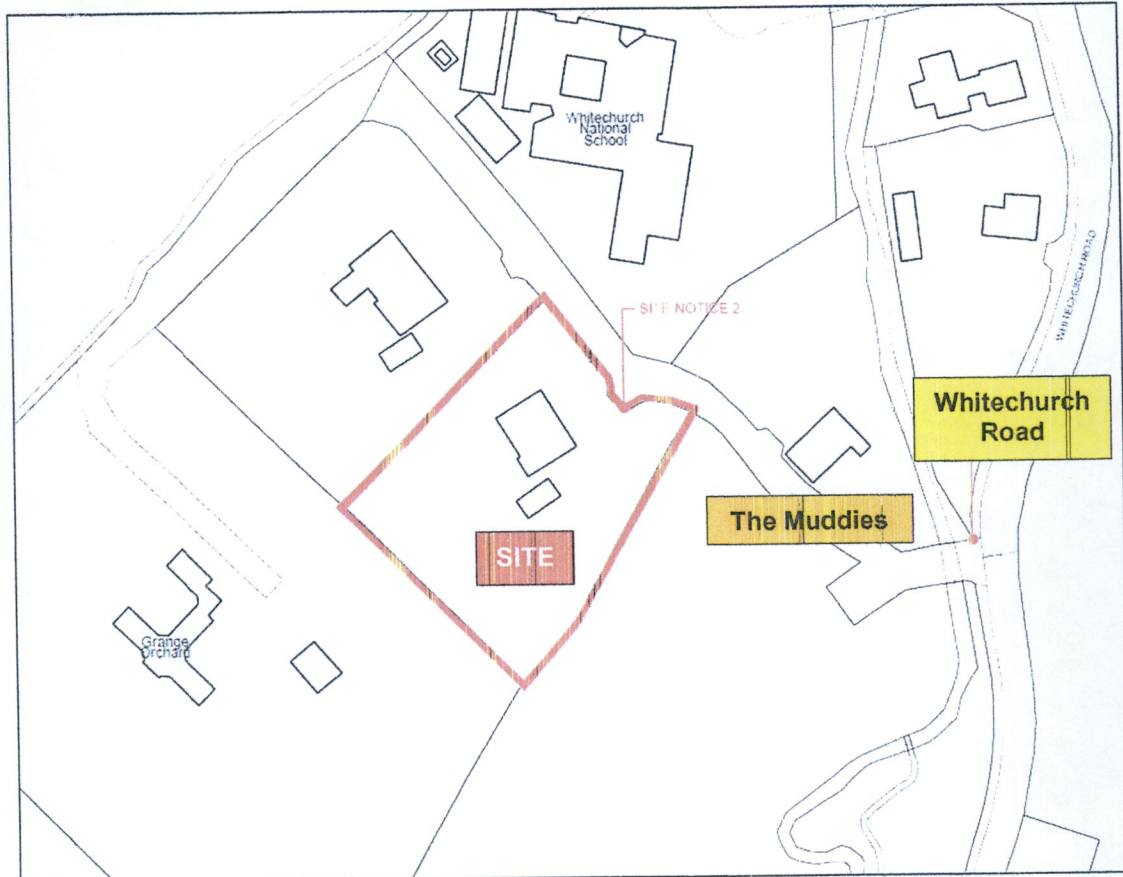
### 1.2 Purpose

1.2.1 This Technical Note has been prepared to demonstrate that safe and suitable access can be achieved for additional residential development on the site.

## 2.0 EXISTING TRAFFIC CONDITIONS

### 2.1 Surrounding Road Network

2.1.1 The location of the site in relation to the surrounding road network is shown below in **Figure 2.1**.



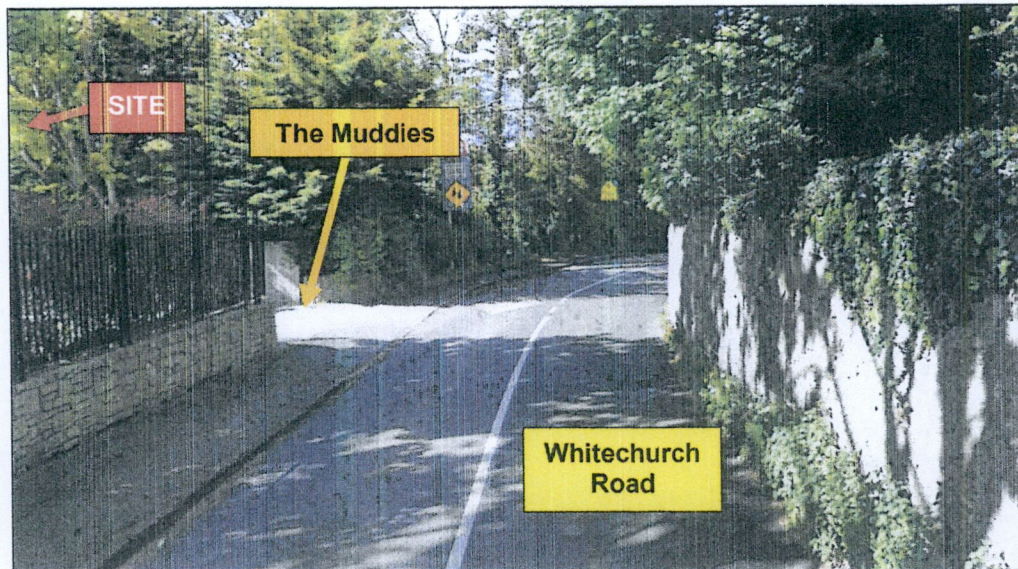
**FIGURE 2.1: SITE AND SURROUNDING ROAD NETWORK**

2.1.2 The L4020 Whitechurch Road runs north-south from the R115 in Willbrook to the roundabout immediately south of the M50 motorway leading to Tibradden Road and Kilmashogue Lane.

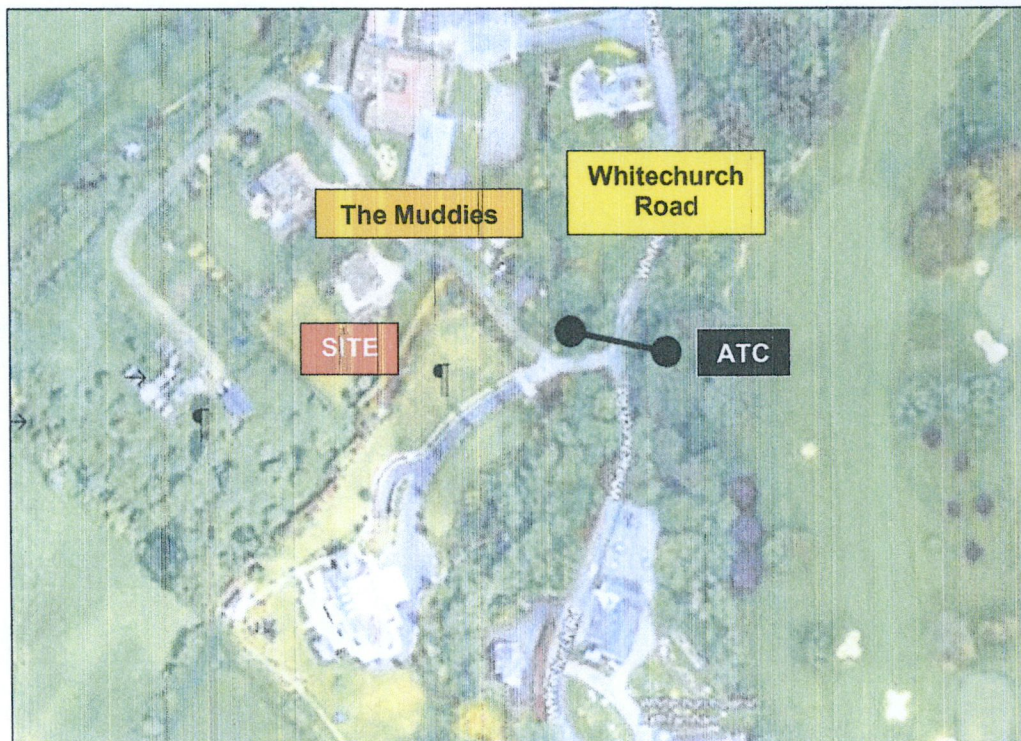
2.1.3 In the vicinity of The Muddies (and the site), Whitechurch Road is subject to a 50kph speed limit to the south and a 30kph speed limit to the north. It provides a single traffic lane in each direction and a footway on the western side of the carriageway as shown overleaf in **Figure 2.2**. It benefits from street lighting and has a solid white line in the centre of the carriageway in the vicinity of The Muddies junction.

## 2.2 Traffic Data

2.2.1 An Automatic Traffic Counter (ATC) was installed on Whitechurch Road just north of the existing site access during the week commencing 4<sup>th</sup> April 2022 in the location shown overleaf in **Figure 2.3**.



**FIGURE 2.2: WHITECHURCH ROAD AND THE MUDDIES**



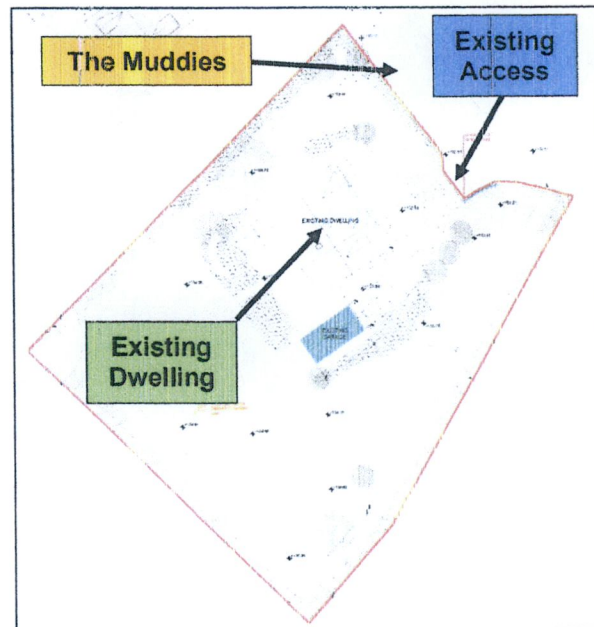
**FIGURE 2.3: ATC LOCATION ON WHITECHURCH ROAD**

- 2.2.2 The ATC data is attached as **Appendix A**.
- 2.2.3 This identified average 12-hour traffic volumes of 798 vehicles northbound and 897 vehicles southbound.
- 2.2.4 The recorded vehicle speeds (85<sup>th</sup> percentile) were 41.58kph northbound and 42.30kph southbound, which reflects the transition area between the 30kph and 50kph speed limits on this part of Whitechurch Road.

### 3.0 PROPOSED DEVELOPMENT

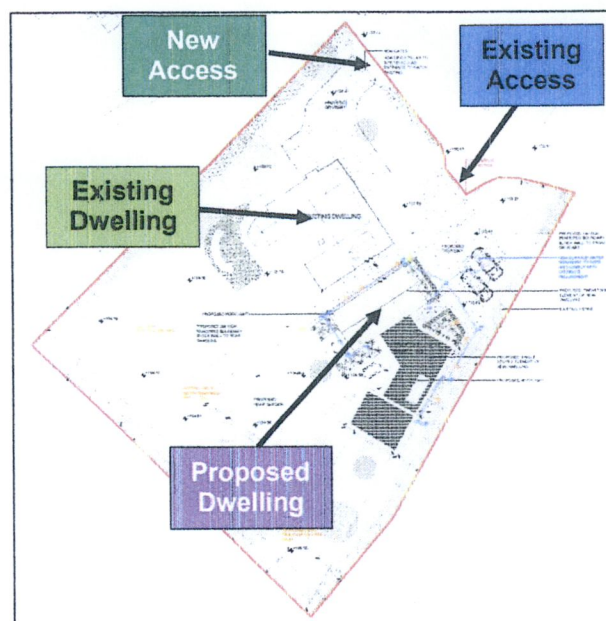
#### 3.1 Site Area

3.1.1 The existing site comprises a single residential dwelling accessed from The Muddies as shown below in **Figure 3.1**.



**FIGURE 3.1: EXISTING SITE LAYOUT**

3.1.2 Our clients propose to construct an additional residential dwelling to the southeast of the existing dwelling that would be served by the existing access. The existing dwelling would be served from a new access in the northern corner of the site as shown below in **Figure 3.2**. These accesses would be separate and would not allow vehicles to travel between the two dwellings within the site.



**FIGURE 3.2: PROPOSED SITE LAYOUT**

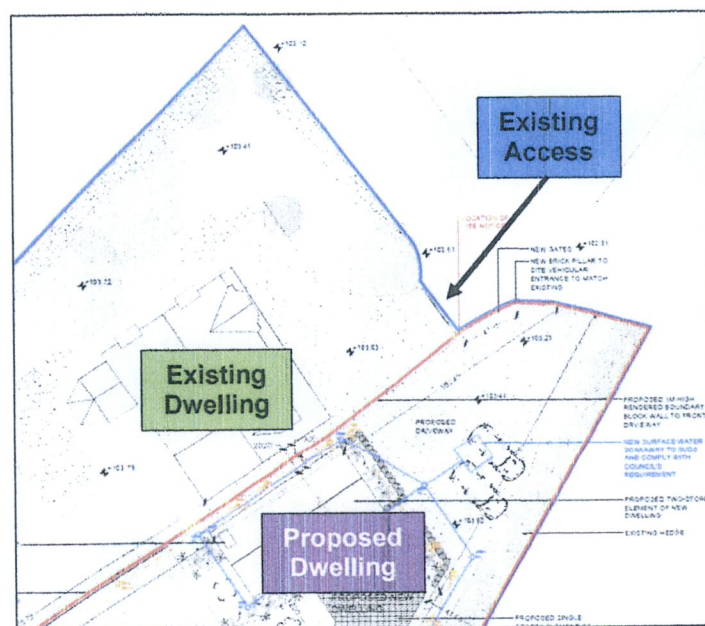
## 3.2 Planning History

3.2.1 Planning permission was refused by South Dublin County Council (SDCC) on 12<sup>th</sup> January 2022 for a similar level of development on the site (planning reference SD21A/0303) for three reasons.

3.2.2 The first reason for refusal related to traffic and transport issues as follows:

1. “This proposal provides for additional traffic movements on a substandard private laneway off Whitechurch Road and would set an undesirable precedent for further similar developments in the area. The proposed development would represent an intensification of use of the substandard road network and would endanger public safety by reason of traffic hazard. Due to said endangerment to public safety and traffic hazard, the development would contravene the 'RES' land-use zoning objective for the area under the South Dublin County Development Plan 2016 - 2022, which reads, 'To protect and/or improve residential amenity.' Furthermore, the Planning Authority is not satisfied that the proposed vehicular access is safe, and is likely to give rise to traffic hazard.”

3.2.3 The Record of Executive Business and Chief Executive's Order noted under the 'Access, Transport and Parking' heading that the level of visibility at the junction of Whitechurch Road/The Muddies and at the previously proposed access were a concern to SDCC. The refused application proposed that both residential dwellings (i.e. the existing and the proposed) were accessed via the existing access as shown below in **Figure 3.3**.



**FIGURE 3.3: REFUSED SITE LAYOUT**

## 4.0 VISIBILITY SPLAYS

### 4.1 Whitechurch Road/The Muddies

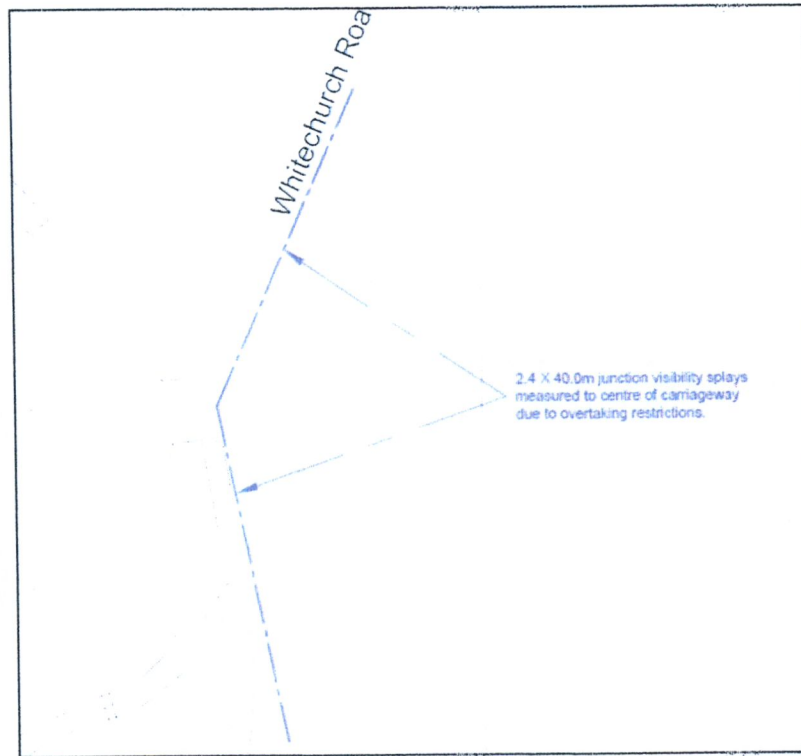
4.1.1 Table 4.2 in the Design Manual for Urban Roads and Streets (DMURS) provides guidance on Stopping Sight Distances (SSD) as shown below in **Figure 4.1**.

SSD STANDARDS			
Design Speed (km/h)	SSD Standard (metres)	Design Speed (km/h)	SSD Standard (metres)
10	7	10	8
20	14	20	15
30	23	30	24
40	33	40	36
50	45	50	49
60	59	60	65
Forward Visibility		Forward Visibility on Bus Routes	

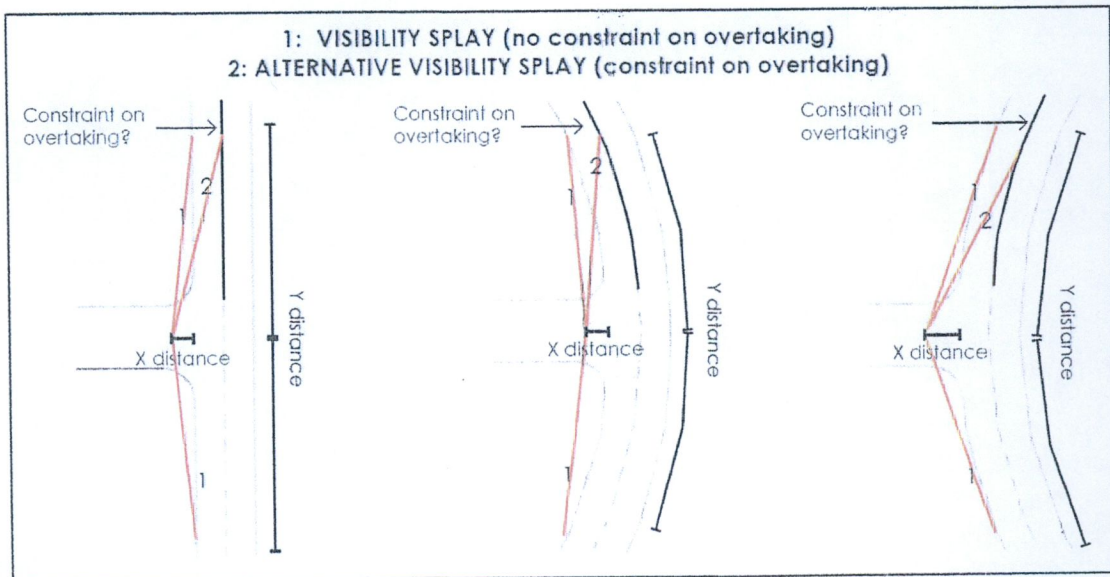
Table 4.2: Reduced SSD standards for application within cities towns and villages. Reduced forward visibility increases driver caution and reduces vehicle speeds.

### **FIGURE 4.1: EXTRACT FROM DMURS SHOWING STOPPING SIGHT DISTANCES**

- 4.1.2 The speed survey results showed 85<sup>th</sup> percentile speeds of approximately 42kph on Whitechurch Road meaning the design speed would be closer to 40kph rather than the 50kph (or 30kph) speed limits in place on the road.
- 4.1.3 DMURS identifies an SSD of 33m for a road with a design speed of 40kph that is not a bus route, such as Whitechurch Road. Given that the surveyed speeds were just above 40kph, an SSD of 40m has been used as it would represent the SSD associated with a speed of 45kph using the SSDs contained in Table 4.2 of DMURS (the midpoint between 40kph and 50kph is actually 39m).
- 4.1.4 Using 40m as the SSD at this junction provides a robust assessment of whether the achievable level of visibility at this location is sufficient and appropriate for the speeds recorded on Whitechurch Road.
- 4.1.5 **Figure 4.2** overleaf shows a 2.4m x 40m visibility splay at this junction and demonstrates that this is clear of permanent obstructions (above 0.6m) as it passes over road or footway. This is also shown in Drawing Number 221021-SK01 attached as **Appendix B**.
- 4.1.6 The sightlines have been measured to the centre of the carriageway (rather than the nearside kerb) as permitted in DMURS, which identifies such an approach when there is a “*constraint on overtaking*” (in this case a solid white line along the centre of Whitechurch Road) in **Figure 4.63** as repeated overleaf as **Figure 4.3**.
- 4.1.7 Thus, the level of visibility available at the junction of Whitechurch Road and The Muddies is acceptable as it accords with the guidance contained in DMURS.
- 4.1.8 Moreover, it is our professional view that the existing junction is capable of catering for the additional traffic associated with the provision of one residential dwelling at the site and will not create a road safety hazard at this location or have an adverse effect upon road safety in general.



**FIGURE 4.2: APPROPRIATE VISIBILITY SPAY AT WHITECHURCH ROAD/THE MUDDIES JUNCTION**



**FIGURE 4.3: MEASUREMENT OF VISIBILITY SPAY (FROM DMURS)**

**4.2 Site Accesses**

4.2.1 It is envisaged that vehicle speeds on The Muddies will be low (up to but not exceeding 20kph) due to the width and character of the lane. DMURS identifies an SSD of 14m for a road with a design speed of 20kph.

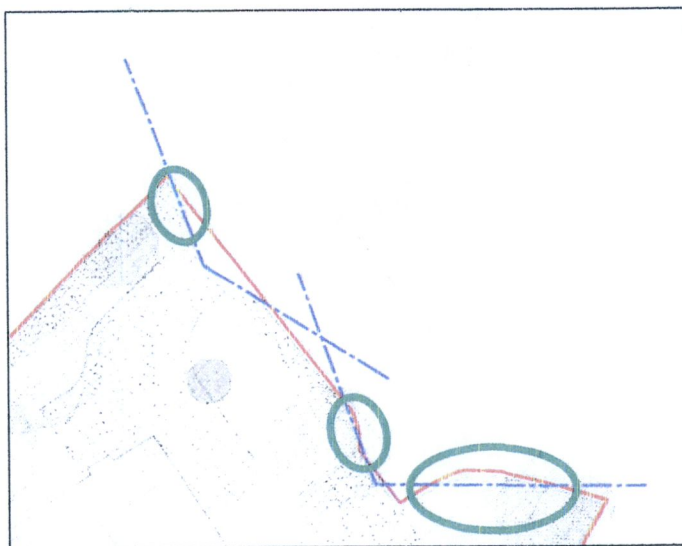


4.2.2 DMURS states that the SSD should normally be clear of permanent obstructions (above 0.6m) from a setback distance of 2.4m. However, DMURS does allow the 'X' distance (the distance back along the minor arm that the sightline along the major road – the 'Y' distance – is measured) to be reduced in certain circumstances as shown below in **Figure 4.4**, which is an the extract from Section 4.4.5 of DMURS.

For this reason, priority junctions in urban areas should be designed as Stop junctions, and a maximum X distance of 2.4 metres should be used. In difficult circumstances this may be reduced to 2.0 metres where vehicle speeds are slow and flows on the minor arm are low. However, the use of a 2.0 metre X distance may result in some vehicles slightly protruding beyond the major carriageway edge, and may result in drivers tending to nose out cautiously into traffic. Care should be taken to ensure that cyclists and drivers can observe this overhang from a reasonable distance and manoeuvre to avoid it without undue difficulty.

**FIGURE 4.4: EXTRACT FROM DMURS ON RELAXATION TO THE 'X' DISTANCE**

- 4.2.3 Given that each of the two accesses would only serve a single residential dwelling in the future, it is considered that such a relaxation is appropriate.
- 4.2.4 Thus, the required visibility splay is considered to be 2m x 14m in this location for the reasons advanced above.
- 4.2.5 **Figure 4.5** below shows the 2m x 14m sightlines at each access point. It can be seen that the existing or proposed walls will need to be repositioned or reduced in height in three areas as shown marked in green below, which is a matter that could be conditioned should planning permission be granted. This is also shown in Drawing Number 221021-SK02 attached as **Appendix C**.



**FIGURE 4.5: APPROPRIATE VISIBILITY SPLAYS AT ACCESSSES**

4.2.6 Thus, the proposed access arrangement accords with the guidance contained in DMURS and is therefore capable of providing a safe and acceptable form of access to the level of development proposed.

## 5.0 SUMMARY AND CONCLUSIONS

### 5.1 Summary

- 5.1.1 This Technical Note has been prepared to support the construction of an additional residential dwelling on land located on The Muddies to the west of Whitechurch Road in Rathfarnham, Dublin 16.
- 5.1.2 The recorded vehicle speeds (85<sup>th</sup> percentile) were 41.58kph northbound and 42.30kph southbound 38.97kph northbound and 40.32kph southbound, which reflects the transition area between the 30kph and 50kph speed limits on this part of Whitechurch Road.
- 5.1.3 The existing site comprises a single residential dwelling accessed from The Muddies. Our clients propose to construct an additional residential dwelling to the southeast of the existing dwelling that would be served by the existing access.
- 5.1.4 The existing dwelling would be served from a new access in the northern corner of the site. These accesses would be separate and would not allow vehicles to travel between the two dwellings within the site.
- 5.1.5 Planning permission was refused by South Dublin County Council (SDCC) on 12<sup>th</sup> January 2022 for a similar level of development on the site where both residential dwellings (i.e. the existing and the proposed) would be accessed via the existing access. The level of visibility at the junction of The Muddies/Whitechurch Road and at the previously proposed access were a concern to SDCC.
- 5.1.6 A visibility splay of 2.4m x 40m is available at the junction of Whitechurch Road and The Muddies, which accords with the guidance in DMURS, and thus the level of visibility available is acceptable.
- 5.1.7 Moreover, it is our professional view that the existing junction is capable of catering for the additional traffic associated with the provision of one residential dwelling at the site and will not create a road safety hazard at this location or have an adverse effect upon road safety in general.
- 5.1.8 The required visibility splay at the two proposed access points is 2m x 14m is achievable if the existing/proposed walls are repositioned or reduced in height, which is a matter that could be conditioned should planning permission be granted.

### 5.2 Conclusion

- 5.2.1 In conclusion, this Technical Note demonstrates that the level of visibility available at the junction of Whitechurch Road/The Muddies and achievable at the two site access points, accords with DMURS and is therefore deemed to be acceptable.
- 5.2.2 Therefore, it is concluded that there are no traffic or transportation reasons why this proposed development should not be permitted.

# Appendix A


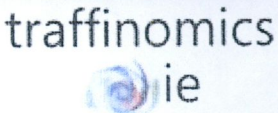
ATC Data

# Site Location



# Site Location



	Job number: TRA/22/098	Job Date: Week Commencing Monday 4 <sup>th</sup> April 2022	Drawing No: TRA/22/098-01	
	Client: MPA		Author: SPW	

**LOCATION:** Whitechurch Road, Rathfarnham @ Clients Access (Goolge Maps Ref: 53.271221, -6.281041)

**SPEED SURVEY SUMMARY:**

**NORTHBOUND** 85% Speed = 41.58 km/h, 95% Speed = 44.82 km/h, Median = 36.36 km/h Maximum = 77.1 km/h, Minimum = 9.7 km/h, Mean = 36.1 km/h

**SOUTHBOUND** 85% Speed = 42.30 km/h, 95% Speed = 45.59 km/h, Median = 37.17 km/h Maximum = 59.9 km/h, Minimum = 1.3 km/h, Mean = 36.7 km/h

**VOLUMETRIC VEHICLE COUNTS:**

Direction	Time	Monday 4 April 2022	Tuesday 5 April 2022	Wednesday 6 April 2022	Thursday 7 April 2022	Friday 8 April 2022	Saturday 9 April 2022	Sunday 10 April 2022	No. Vehicles	7 day Mean
NORTHBOUND	07-19	763	748	742	779	796	969	786	5583	798
SOUTHBOUND	07-19	862	849	792	884	863	1105	925	6280	897
NORTHBOUND	00-00	901	919	901	962	943	1071	876	6573	939
SOUTHBOUND	00-00	986	969	914	1027	992	1185	994	7067	1010

**PEAK FLOW SUMMARY:**

Peak	AM	IP	PM
Most Frequent	0800	1200	1700
Peak Hour Average Vehicles per Peak Hour	91	92	94

# Appendix B

Drawing No. 221021-SK01



# Appendix C

Drawing No. 221021-SK02



