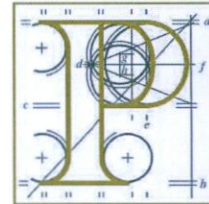


**Our Case Number:** ABP-317426-23

**Planning Authority Reference Number:** SD22A/0386



An  
Bord  
Pleanála

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

**Land Use Planning & Transportation**

**28 JUN 2023**

**South Dublin County Council**

**Date:** 26 June 2023

**Re:** Demolition of garage, construction of house with new vehicular access from Limekiln Road, diversion of the existing storm water pipe and all associated ancillary site works.  
46, Limekiln Road, Dublin 12

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.

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaio Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

64 Sráid Maoilbhríde	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.

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, (as amended), (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act.

<b>Tel</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1800 275 175
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D01 V902	D01 V902

**SCA PLANNING  
PLANNING AND DEVELOPMENT  
CONSULTANTS**

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1

21 June 2023

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>064463-23</u>
ABP-	
21 JUN 2023	
Fee: €	<u>220.00</u> Type: <u>CARD</u>
Time:	<u>1.25pm</u> By: <u>hand</u>

**Re. First Party Appeal - Proposed Infill Dwelling at 46 Limekiln Road, Dublin 12  
South Dublin County Council Planning Reg. Ref. SD22A/0386**

Dear Secretary,

On behalf of John McWeeney, 46 Limekiln Road, Dublin 12, I wish to submit a first party appeal against the decision of South Dublin County Council (SDCC) to refuse permission for an infill residential dwelling at 46 Limekiln Road, Dublin 12. The appropriate fee of €220 for a non-commercial development has been paid.

The proposal to consolidate an established suburb by developing a house on a side garden is consistent with national, regional and local planning policy. SDCC was generally supportive of the principle of development. The main issue arising relates to the relocation of an aging public surface water pipe that traverses the site to facilitate development in a manner previously acceptable to SDCC.

As will be explained in this appeal, SDCC previously granted permission for similar development on this site, including relocation of the pipe as currently proposed. As there has been no change in policy to justify the refusal, and every effort has been made to address the issue with SDCC, the applicant is now seeking a fair assessment by An Bord Pleanála.

Simon Clear B.A. Dip. T.P. MIPI

Darran Quaile B.A. MRUP MSc BLUP MIPI

Paula Shannon B.A. MRUP MIPI

17A BRIDGECOURT OFFICE PARK,  
WALKINSTOWN AVENUE,  
WALKINSTOWN,  
DUBLIN 12  
IRELAND.

Phone: 00-353-1-492 5934  
E-mail: [admin@clearconsult.ie](mailto:admin@clearconsult.ie)

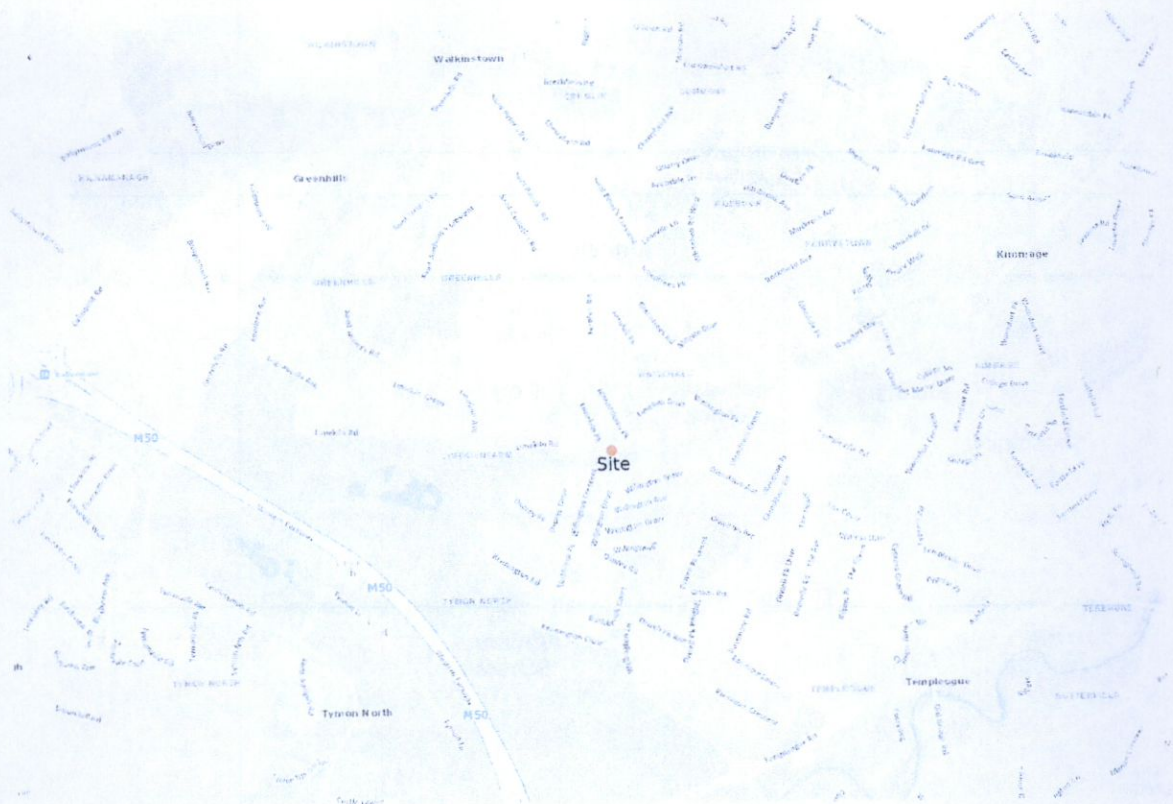
Throughout the process, the applicant has demonstrated a commitment to ensuring that all issues raised were comprehensively addressed by experts in surface water drainage.

It will be demonstrated that the unsubstantiated concerns of one section, the Surface Water Drainage Department of the Planning Authority, has dominated the decision-making process to the detriment of achieving overarching objectives for consolidation on zoned and serviced land as laid down in the Development Management Guidelines for Planning Authorities (DEHLG 2007) – (DMG). The *South Dublin County Development Plan 2022-2028* supports sustainable developments of this nature for many reasons including compliance with Government Policy, NPF, RSES and combatting climate change.

In addition, the Planning Authority's handling of the application has been unorthodox and inconsistent with the DMG, in that a request for further information (RFI) issued, to which there was a response from SCA, with further new issues raised in a request for clarification of further information (CFI) and in the reasons for refusal.

#### **1. Site Location & Context**

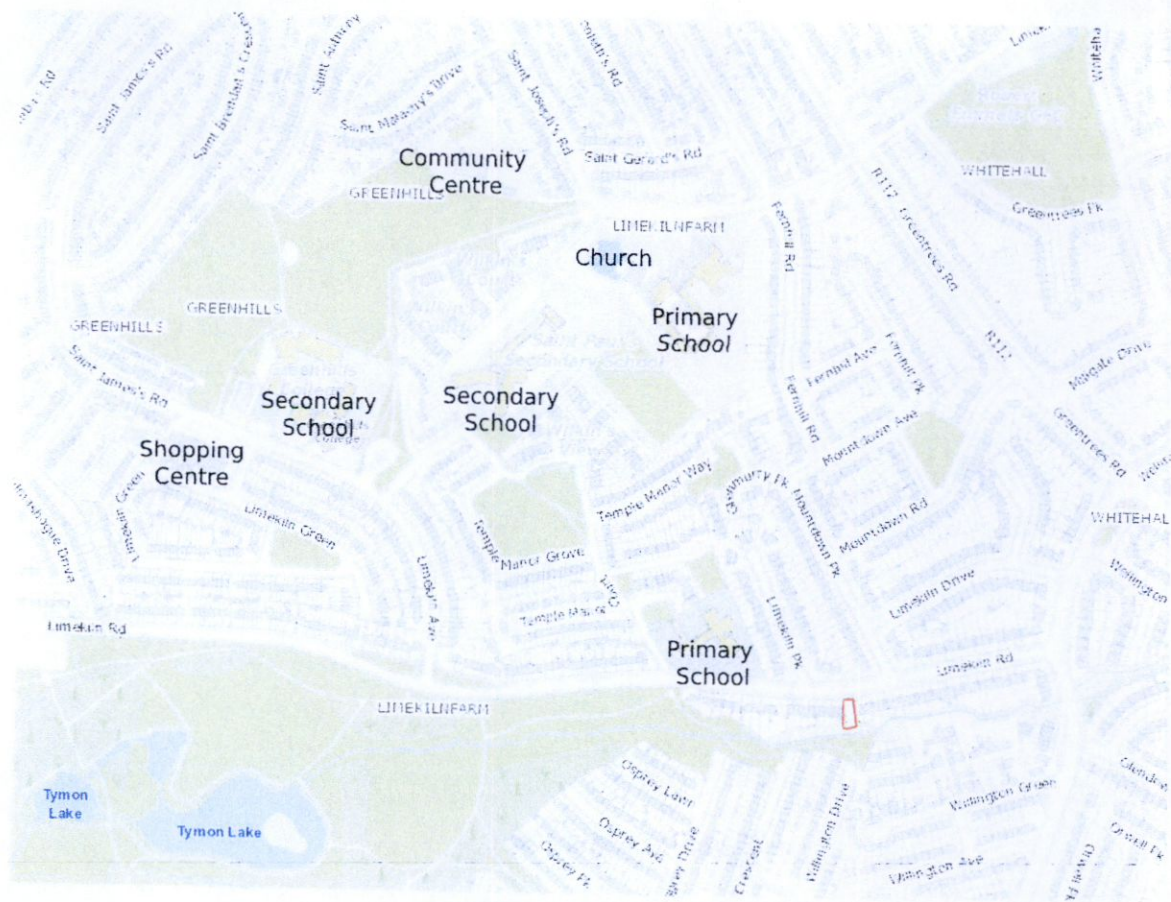
Limekiln Road forms part of a long-established residential suburb located between Walkinstown and Templeogue.



**Figure 1: Context Map**

The area is very well served by social and community infrastructure. Schools located close to the site include Riverview Educate Together Primary School, Holy Spirit Primary School, St. Pauls Secondary School and Greenhills College. There are several large public parks within walking distance including Tyron Park.

Neighbourhood shopping services are provided at the recently developed Greenhills shopping centre located at Limekiln Green and at the established Orwell shopping centre located at Orwell Park.



**Figure 2: Site Location Map**

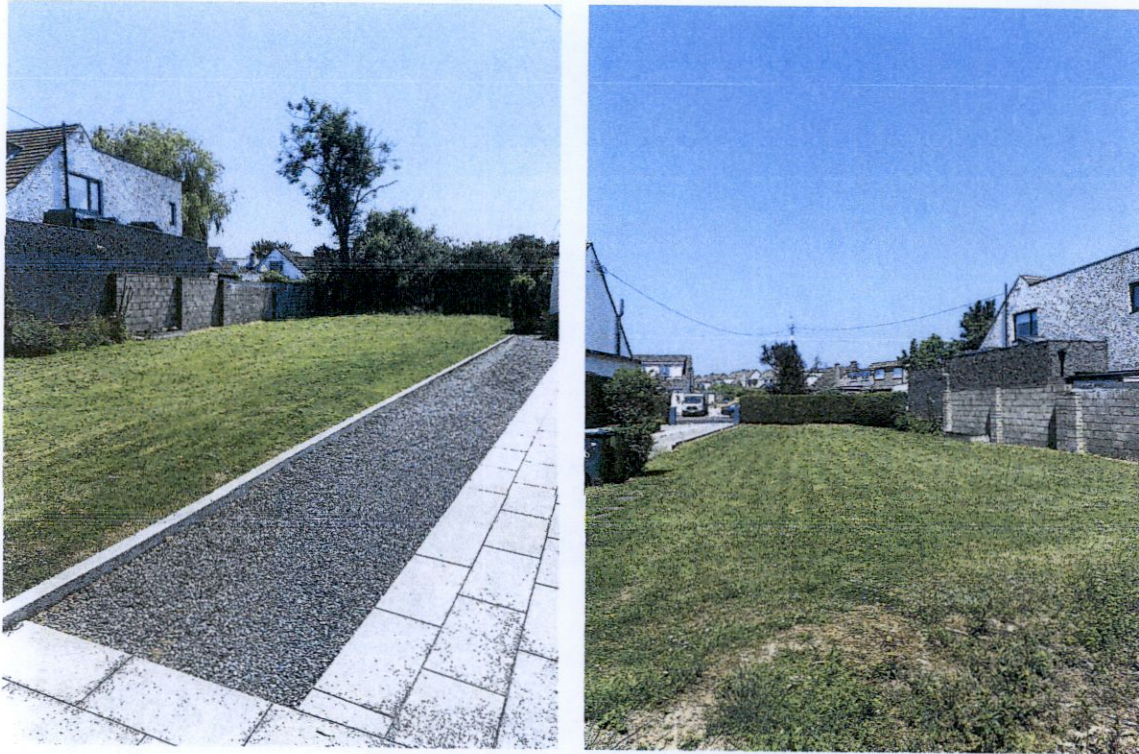
The area is served by bus public transport, with the 15A route (Limekiln Avenue to city centre) travelling along Limekiln Road with a bus stop located opposite the site. The 54A and 150 routes are also available nearby on Wellington Road.

The site is situated on the south side of Limekiln Road. The pattern of development is characterised by low density semi-detached dormer bungalows. The frontages are set behind a deep grass verge to the road. The subject site forms a gap in the streetscape.



**Figure 3: Street Context**

The site forms part of the curtilage of No. 46, which is located to the west. No. 44 is located to the east and the Poddle River corridor to the south.



**Figure 4: View of site looking south and north**

The southern boundary is defined by a mature hedge, which forms part of a steep bank to the Poddle. The photograph below shows the hedge from the opposite side of the Poddle, with the dormers to No. 46 in view.





**Figure 5: View of site from south bank of Poddle River**

The area has been able to accommodate infill development in recent years, particularly on south side of the Poddle, including 2 dwellings constructed to the rear of No. 6 Wellington Cottages<sup>1</sup>.

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<sup>1</sup> Granted by ABP (Ref. 304550) on foot of a first party appeal by this practice.



Figure 6: Aerial Context Map with subject site and infill development outlined in red

## 2. Planning Policy

While the proposal is small in scale, on a cumulative basis such developments have the potential to deliver substantial numbers of dwellings in a sensitive manner and consistent with national, regional and local planning policy.

### 2.1 National Planning Framework

The *National Planning Framework (NPF)* signals a shift in Government policy towards securing more compact and sustainable urban development, to enable people to live nearer to where jobs and services are located. There is a major new policy emphasis on renewing and developing existing built-up areas rather than continual expansion and sprawl of cities and towns out into the countryside, with a target of at least 40% of new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

The NPF's number one strategic objective, Compact Growth, sets a clear development outcome to grow our existing urban areas creating a priority to build on brownfield / infill development first, before considering greenfield lands

#### **National Policy Objective 3a**

Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements<sup>17</sup>.

#### **National Policy Objective 3b**

Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints<sup>18</sup>.

NPO 35 – seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

The proposed residential development is located in an established suburb of Dublin and within walking distance of services, amenities and public transport. The proposal is appropriate for the site and will assist in achieving the broad objectives of the NPF by concentrating development in an existing urban area and combating urban sprawl.

## ***2.2 Regional Spatial and Economic Strategy – Eastern and Midland Regional Assembly***

The *Eastern Midland Regional Assembly Regional Spatial and Economic Strategy (EMRA RSES)* supports the implementation of National Policy Objectives and targets contained in the NPF.

The *EMRA RSES* strongly supports the consolidation and re-intensification of infill, brownfield and underutilised lands in the Dublin Metropolitan Area, supported by improved public transport.

It is a policy objective RPO 4.3 of the RSES to 'support the consolidation and reintensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.'

The proposed development is consistent with the *EMRA RSES* as it provides for the consolidation of an under-utilised site in the metropolitan urban area.

## 2.3 Development Plan Context

### 2.3.1 Zoning

Under the provisions of the *South Dublin County Development Plan (SDCDP) 2022-2023* the site is zoned Residential with an objective to protect and/or improve residential amenity. The residential zoning objective extends beyond the site to include the area between the rear boundary and the River Poddle. Land on the southern bank of the Poddle is zoned Open Space (part of Tymon Park). There are no site-specific objectives relating to the subject site.



Figure 7: Zoning map extract

### 2.3.2 Core Strategy

The spatial approach to the Development Plan is to make the most efficient use of land and existing infrastructure by focusing development on urban infill and brownfield lands thereby reducing urban sprawl.

The proposed development is consistent with the Core Strategy of the SDCDP, including the following objectives:

*CS6 Objective 2: To promote compact growth and to support high quality infill development in existing urban built-up areas by achieving a target of at least 50% of all new homes to be located within or contiguous to the built-up area of Dublin City and Suburbs.*

*CS7 Objective 3: To promote and support the development of undeveloped infill and brownfield zoned lands and to promote pre-application consultation in accordance with Section 247 of the Planning and Development Act, 2000 (as amended)*

### 2.3.3 Residential Consolidation

Section 6.8.1 of the SDCDP provides further policy on suburban infill development:

*In established residential areas sustainable intensification can be achieved through infill development, the subdivision of larger houses, backland development and the development of large corner sites. Sensitive intensification will be important to revitalise areas that have stagnant or falling populations, to secure the ongoing viability of facilities, services and amenities and to meet the future housing needs of the County.*

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

*H13 Objective 3: To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas,*

*subject to appropriate safeguards and standards identified in Chapter 12: Implementation and Monitoring.*

#### 2.3.4 Climate Change Audit

The SDCDP includes a Climate Action Audit, setting out measures to address climate impact. The measures include:

- *Promoting efficient use of lands within established residential areas by facilitating infill development*
- *The development of brownfield sites / infill and regeneration is supported*

#### 2.3.5 Development Management

There are no policy contra-indications to development of the type proposed. The proposed development is designed in compliance with the development management criteria for side garden sites. As the design and layout of the dwelling was acceptable to SDCC, it is not intended to repeat the assessment in this appeal.

### **3. Planning History**

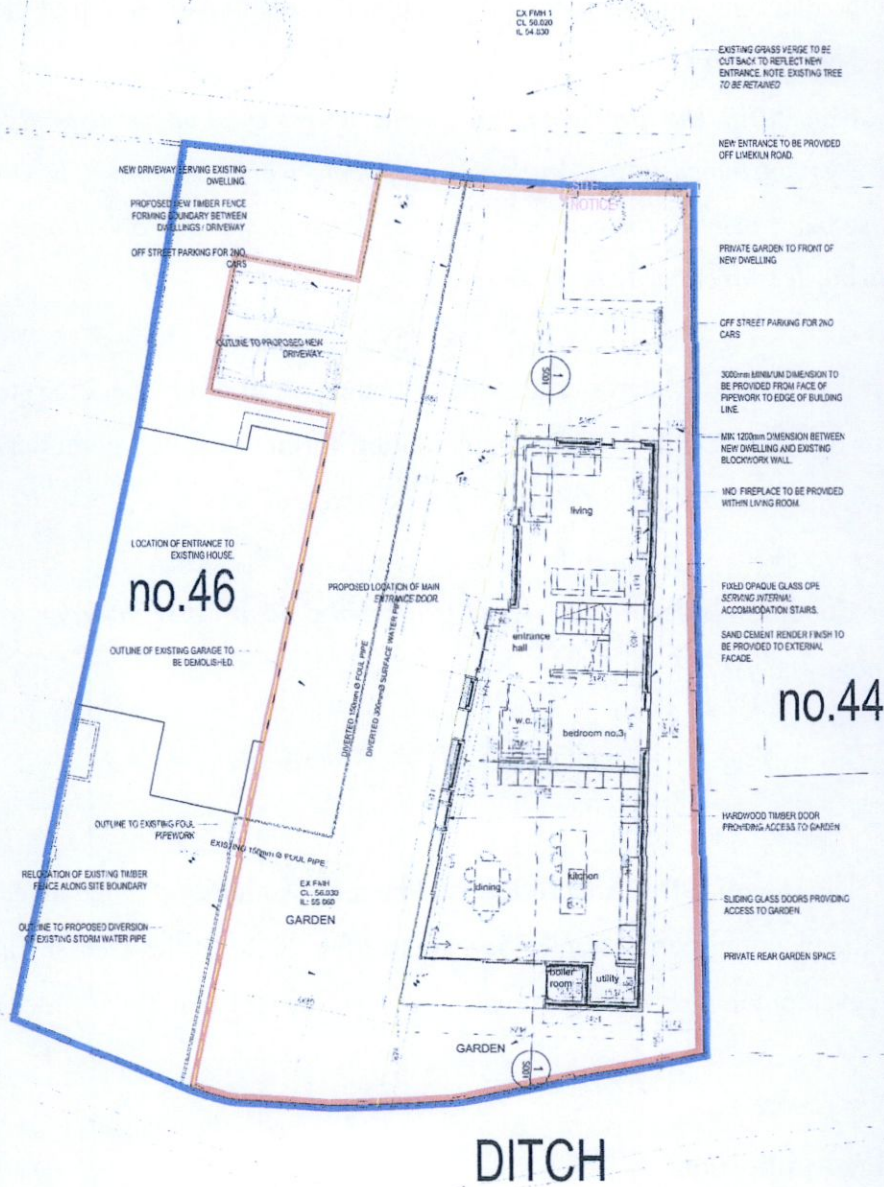
The proposal to develop this infill site was comprehensively assessed by SDCC under planning ref. SD07A/0710. At the proactive request of SDCC<sup>2</sup>, the surface water drain was relocated towards the western boundary to facilitate a wider dwelling, which was considered to be more in character with the existing dwellings. The permitted layout is shown below.

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<sup>2</sup> Further information Item 1 of SD07A/0710

+56.0

# LIMEKILN ROAD



PLANNING - ADDITIONAL INFORMATION  
GROUND FLOOR PLAN 1:100

avril o'connor | architect  
b arch ac dip arch. msc  
5 Cappagh estate, dublin 16, republic  
t: 086 8134614

CLIENT  
J. P. McWhinney  
46 Limekiln Road  
Walshorstown  
Dublin 12  
Ireland

DATE OF ISSUE: 27/04/2016  
NO. OF SHEETS: 03/03  
DRAWING: 1:100 PLAN  
FILE: 20160427 AP  
SCALE: 1:100  
DATE: 27/04/2016

NO.	DESCRIPTION	DATE	BY
1	Issue for Planning	27/04/2016	AO
2	Issue for Construction	27/04/2016	AO

- AREAS THE SUBJECT OF THIS APPLICATION
- LANDS IN THE OWNERSHIP OF THE APPLICANT
- WAYLEAVES
- SITE NOTICE

1. Existing Retained
2. Work in Progress (Retained) with 1:100 scale drawings
3. This drawing is submitted to the Planning Authority for their consideration and approval. It is not to be used for any other purpose without the written consent of the Architect.
4. Where appropriate, it is the responsibility of the client to ensure that all necessary permissions and consents are obtained from the relevant authorities.
5. The Architect is not responsible for the construction of the building or any other works.
6. Several drawings have been produced on this drawing.
7. The Architect shall be responsible for the production of the final drawings and works.

Figure 8: Permitted Site Plan

Permission was granted subject to conditions, including a very detailed Condition 3 relating to foul and surface water drainage. For reference, the full text of Condition 3 is included in Appendix 1 of this appeal.

It is noted that the Planning Authority conditioned that the required diversion of the public sewer be carried out by SDCC.

*Surface Water: (iii) The diversion of any public sewers shall be carried out by South Dublin County Council at the developers/ applicant's prior expense. The diversions shall take place prior to the commencement of development. The diversions shall not result in any loss of capacity in the sewer.*

In relation to the surface water outfall, the Planning Authority specified technical requirements to be agreed with SDCC. The condition further required compliance with the *Greater Dublin Regional Code of Practice for Drainage Works*.

The reason for Condition 3 was *in the interests of public health and in order to ensure adequate drainage provision*.

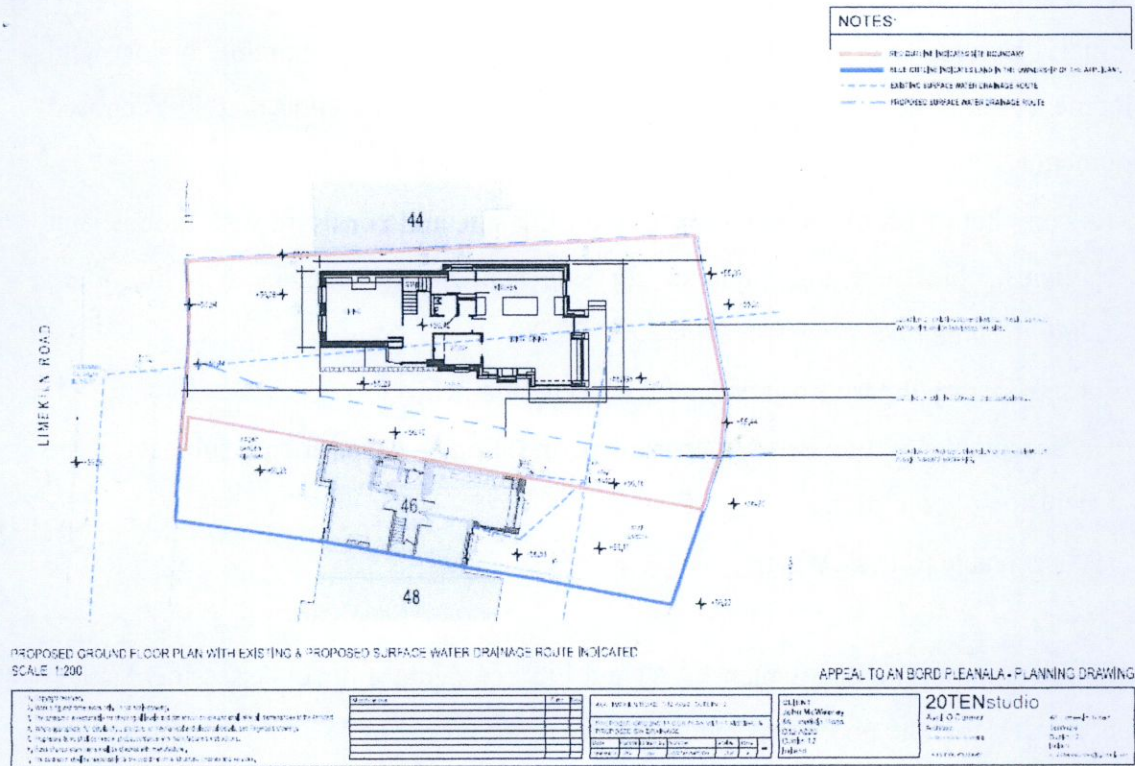
In 2012 under planning ref. **SD07A/0710/EP** the Planning Authority granted an extension of duration of the planning permission of 5 years to May 2018. In the assessment it was noted that the development was consistent with the Development Plan (2016-2022).

#### **4. Planning Application**

The proposed development as described in the statutory notices will consist of:

*The demolition of the existing garage and the construction of 1 no. dormer style 3 bedroom detached dwelling with new vehicular access from Limekiln Road including the diversion of the existing storm water pipe and all associated ancillary site works. Proposed works similar to previously approved planning permission ref. SD07A/0710.*





**Figure 9: Proposed Site Plan showing existing and proposed drainage alignment**

The planning application was prepared by an experienced design team of architects and engineers. The dwelling has been carefully designed by 20TENstudio to provide an appropriate infill dwelling, which responds to the constraints of the site.

Prior to submission of the planning application, Downes Associates engaged with the Surface Water Drainage Department (SWDD) of South Dublin County Council (SDCC), noting that the proposal to divert the pipe was consistent with a previous permission. No issues of principle were raised by SWDD<sup>3</sup> and the technical requirements that emerged from the engagement were incorporated into the proposal.

The application was supported by a detailed Civil Engineering Report prepared by Downes Associates Consulting Engineers and a Site-Specific Flood Risk Assessment prepared by Punch Consulting Engineers.

<sup>3</sup> See Appendix 1 of the RFI response letter for details of Pre-Application correspondence between the SWDD and Downes Associates

## 5. Planning Authority Assessment and Decision

The initial Planning Officer's Report detailed the site context, planning history and Development Plan policy. It is noted from the Planning Officer's Report that the proposed development:-

- Is compliant with the zoning objective for the site and consistent with the relevant policies, objectives and guidance for side garden sites contained in the *South Dublin County Development Plan 2022-2028*.
- Is satisfactory in terms of residential and visual amenity.
- Is acceptable to the Parks Department and Roads Department, subject to the inclusion of conditions.
- Is acceptable to Irish Water.

In relation to Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) the Report states that the proposed development:

- Would not have a significant effect individually or in combination with other plans or projects on the Natura 2000 network and appropriate assessment is not required.
- Would not have significant effects on the environment and the need for EIA can be excluded at preliminary examination.

The Surface Water Drainage Department (SWDD) recommended refusal for the following reason:-

- *There is a 300mm surface water sewer passing through the site where house is proposed. Water service do not recommend diverting same to allow proposed house to be developed.*
- *Water services recommend that proposed development be refused because it would be prejudicial to public health and proper planning.*

There was no explanation in that report as to why there was a change in policy from the previous permission and extension of duration, or why there was fundamental deviation from the initial pre-planning technical guidance.

The initial Planning Officer's assessment concluded: -

*Having regard to the serious concerns of the Water Drainage Department with regard to the existing 300mm surface water sewer, it is considered necessary to ensure the proposed development is compliant with Development Plan policy<sup>4</sup> and the proper planning and sustainable development of the area. In addition and notwithstanding the absence of an objection from the Water Drainage Department, having regard to the location of the site within flood zone B, a site-specific flood risk assessment is required in accordance with the Planning System and Flood Risk Management Guidelines for Planning Authorities to enable the planning authority to fully assess the proposals [emphasis added].*

Having regard to the Planning History of the site, the Planning Authority afforded the applicant the opportunity to liaise with the SWDD and further information was requested (RFI) in this regard.

The Board will note that this practice (SCA) prepared a response to the RFI. As noted in their preparation of the engineering response, Downes Associates made considerable efforts to engage with the SWDD to understand the technical reasons behind the recommendation to refuse and why the development would be prejudicial to public health and proper planning. The SWDD did not respond to the consultant engineers with any technical reasons for the recommendation<sup>5</sup>.

The Planning Officer's assessment of the RFI response listed reasons for refusal from SWDD, labelled as items 1.1 to 1.6 on page 20. Contrary to the Planning Officer's Report (pg. 21), the applicant had not responded to these specific items as this was new information (see Appendix 2).

The Planning Authority decided to seek Clarification of Further Information (CFI) based on the SWDD report and further requested that the applicant engage a '*specialised consultant to prepare a revised design that would enable the development to coincide with the existing 300mm surface water sewer*'.

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<sup>4</sup> No issue of non-compliance with the Development Plan was expressed in the initial Planning Officer's assessment.

<sup>5</sup> See Appendix 2 and 3 of the RFI response letter for details of correspondence between the SWDD and Downes Associates

In response, the applicant submitted a revised report by Downes Associates addressing the 6 technical issues raised by SWDD. It should be noted that the applicant engaged Downes Associates at the start of the project due to their extensive knowledge and expertise in the area of drainage, being one of few stormwater auditors on the DLRCC framework. It was also explained and illustrated on the Site Plan that there was no possibility of developing a house on the site while maintaining the pipe in its current position and maintaining required 3m setbacks.

At this stage, the Planning Officer's report takes an unusual turn. The technical information provided in response to CFI is not discussed. Rather, aspects of the development that were proposed from the outset are reassessed under a "Planning Note". Development Plan objectives for Riparian Corridors are quoted and the proposal is deemed to contravene such objectives. The assessment also notes that a concrete headwall is proposed outside the red line boundary.

Permission was refused for 2 reasons, the first of which relates to the matters raised in the "Planning Note". The second reason emanates from the SWDD and includes issues that were addressed in the responses to further information, as well as new issues.

## **6. Grounds of Appeal**

The *Development Management Guidelines for Planning Authorities* states that best practice in development management is made up of various elements, one of which is the provision of '*rational and consistent decisions.*'

The Guidelines also provide guidance on the need for balanced reporting in situations where internal reports may not be in agreement:

*The preparation of planning reports and recommendations depends on a variety of inputs from, for example, the roads, environment, housing, water services, fire safety or other departments/sections of a local authority and also, on occasion, from external agencies. Not all such submissions and reports may be in agreement on the course of action necessary. In such situations, it is the function of the planning report to set out all the relevant issues and to assign the appropriate*

*weighting to issues raised. In this regard it is especially important that the planning report takes into account, and responds appropriately to, national planning policy and relevant provisions of the development plan. Minor concerns that arise in internal reports, for example concerns in relation to minor deficiencies in the capacity of local infrastructure, may be capable of being resolved by way of conditions in cases where the proposed development would otherwise be consistent with the objectives of the development plan. Essentially the planning report must strike an appropriate balance between concerns at local level and an overview of all relevant policies and information. [Emphasis added]*

The applicant is seeking a balanced assessment of the proposal from ABP. In essence, this is a very simple appeal – one 300mm surface water pipe is being replaced with a new one a short distance away on the same stream line. It is our submission, based on planning history and expert engineering advice, that the technical issues raised in relation to the surface water drain can be addressed in accordance with best practice. As the surface water pipe was to be relocated at the suggestion of SDCC and a best practice technical solution was instructed to be carried out by SDCC in the previous permission (and in the extended duration), in the absence of any policy change in the meantime, the decision is not rational or consistent.

As was the case in 2007, the drainage proposal is consistent with the *Greater Dublin Regional Code of Practice for Drainage*. Similarly, the applicant will accept any technical conditions imposed on a grant of permission.



As was noted in the RFI response letter (Appendix 4), there are many examples of permissions involving the diversion of drains to facilitate development. These permissions are all within the Dublin region and subject to the Greater Dublin Regional Code of Practice for Drainage Works. It is evident that there is no issue in principle with the diversion of drains to facilitate development.

The Planner's Report displays a lack of understanding as to what Riparian issues and threats are. There is no threat to Riparian functions and values for vegetative and fauna ecosystem protection and the proposed development is not inconsistent with SDCDP

policies and objectives. The reasons given for refusal cannot be sustained and they will be addressed in sequence below.

Reason 1

The first reason for refusal relates to impact on the River Poddle having regard to its status as a secondary GI link on the Green Infrastructure Strategy Map and GI3 Objective 1 and 2.

<b>Policy GI3: Sustainable Water Management</b>	
Protect and enhance the natural, historical, amenity and biodiversity value of the County's watercourses. Require the long-term management and protection of these watercourses as significant elements of the County's and Region's Green Infrastructure Network and liaise with relevant Prescribed Bodies where appropriate.	
Accommodate flood waters as far as possible during extreme flooding events and enhance biodiversity and amenity through the designation of riparian corridors and the application of appropriate restrictions to development within these corridors.	
<b>GI3 Objective 1:</b>	
To ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.	
<b>GI3 Objective 2:</b>	
To require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology.	

Policy GI3 must be considered in the context of the nature and scale of development proposed and the purpose of the policy to ensure that the natural, historical, amenity and biodiversity value of the County's watercourses are protected. In relation to the subject proposal, an existing surface water pipe will outfall to the river at a slightly different location and a precast headwall will be constructed. The proposed headwall detail can be omitted and the existing outfall detail can be replicated if this is SDCC's preference. . The works are minor and will be carried out by or under the supervision of the Planning Authority.

In relation to the red line, no work outside the site can proceed without the consent of the local authority (which was previously provided in 2008). Ultimately, the proposal seeks to upgrade a piece of aging public infrastructure and can only proceed with the agreement of all parties.

In terms of the riparian value of watercourses as expressed in Policy GI3, the considerations are based on nature/biodiversity, historical and amenity considerations. The subject development does not fail based on any of these considerations, as the strip of land running behind the site is private, is not nature rich or historical, is not readily accessible and is not a public amenity.



**Figure 10: Land to rear of No. 46 and beyond**

In relation to nature/biodiversity, the works will require some clearance of existing hedgerow and scrub. Impacts on the ecological function of the riparian corridor would be minor and temporary in nature.

### Reason 2

The second reason for refusal is technical in nature and is considered in the enclosed response document prepared by Downes Associates. As a general comment, it is disappointing that despite the efforts of the design team to address the concerns of SWDD, it appears that the application details were not given due consideration, resulting in misunderstanding and misinterpretation of the proposal.

In relation to flood risk as mentioned in Reason 2, the development was assessed by Punch Consulting Engineers. The *Site Specific Flood Risk Assessment (SSFRA)* concludes that the proposal will not increase the risk of flooding to adjacent or nearby areas. The provision of a non-return valve at the outfall will mitigate an existing flood risk to the area.

The Planning Officer's Report at page 22 confirms that the SSFRA had no objection to the Flood Risk element of the proposal. The allegation of flood risk is therefore without substance and cannot be sustained.

*The Surface Water Drainage Department has no objections to the Flood Risk element of the proposal and state the following: The site is at risk of a 1 in 1,000-year flood event. Measures are required to prevent flooding of development at the site and up and downstream of site.*

In relation to Reason 2(5), it is evident that the Planning Authority has conflated EIA and AA. As the Board will be aware, AA has no role in determining if an EIAR is required. As noted earlier in this appeal, the Planning Authority carried out its statutory functions in relation to both AA and EIA and both were screened out in the Planning Officer's Report.




### **Summary and Conclusion**

The decision of the Planning Authority is irrational and inconsistent and the result is effectively a sterilisation of a zoned and serviced site contrary to the overarching policy for consolidation of urban areas as expressed at national, regional and local policy level. If the decision to refuse based on an existing drain is upheld, it creates very significant implications for consolidating urban areas.

The proposal will provide a high-quality dwelling while respecting the character of Limekiln Road and the amenities of existing dwellings. The proposal will upgrade an aging public surface water pipe, facilitate the provision of a wayleave for future maintenance and mitigate flood risk.

It is requested that permission be granted subject to the attachment of appropriate conditions.

Yours sincerely,



Darran Quaile

Appendix 1 – Condition 3 of SD07A/0710

Condition 3: (for reference only)

Foul Drainage:

- (1) Prior to commencement of the development, revised drainage plans shall be submitted for the written agreement of the Planning Authority, showing a separation distance of at least 2m between the diverted surface water sewer and diverted foul drain.
- (ii) Prior to commencement of the development, all drainage drawings for the development shall be submitted to the Planning Authority, South Dublin County Council for written agreement.

Surface Water:

- (iii) The diversion of any public sewers shall be carried out by South Dublin County Council at the developer's / applicant's prior expense. The diversions shall take place prior to the commencement of development. The diversions shall not result in any loss of capacity in the sewer.
- (iv) The foundations of the new house shall be constructed beneath the invert level of the diverted sewer.
- (v) The following requirements will be adhered to in relation to the proposed surface water outfall to a stream: Any new surface water drainage outfall to a river/ stream shall comply with the following requirements:

- a. There shall only be one surface water outfall point to the river.
- b. The invert level of the outfall should be 200mm above the normal water levels.
- c. A flap valve / non-return valve should be fitted to protect against back flooding.
- d. South Dublin County Council shall not be liable for the failure of the non-return valve. The outfall should be so formed as to avoid, or provide against, local erosion and should be so angled as to discharge in the direction of flow of the watercourse.
- e. Outfall details must include headwall, wing walls and apron.
- f. A suitable grating shall be provided at the outfalls to prevent access by children etc.

(vi) The water supply and drainage infrastructure, including the disposal of surface water, shall comply with the technical requirements of the Planning Authority.

(vii) There shall be complete separation of the foul and surface water drainage systems. (viii) All drainage works for this development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works which can be viewed/downloaded from <http://environment.southdublin.ie/click-publications/then-specifications/>.

PERSON: In the interests of public health and in order to ensure adequate drainage provision

## Appendix 2 – Extract from Planning Officer’s Report - New matters raised at CFI

### Assessment

As requested, the applicant had liaised with the *Surface Water Drainage Department* regarding the proximity concerns of the existing 300mm surface water sewer. The resulting submitted report from drainage stated **Refusal** for the following reasons:

- 1.1 There is a 300mm surface water sewer passing through the site where house is proposed. Water service do not recommend diverting same to allow proposed house to be developed because:  
The proposed diverted surface water pipe sharpens (Increased right angle bend) the angle of flow which in turn increases the risk of blockage of surface water flow in the pipe. This would also increase flood risk up stream of site.
- 1.2 The proposed angle of flow of pipe entering canal is against the direction of flow and this would further block surface water entering canal.
- 1.3 There is an additional manhole proposed (S7) and this together with moving existing surface water sewer poses a risk of having a new pipe built in accordance with building regulations.
- 1.4 The proposed surface water sewer adjacent to S7 is too close to foul drain adjacent to Manhole F4.
- 1.5 There will be traffic loads over proposed diverted surface water sewer which could damage the pipe and there is not sufficient cover level to surface water sewer.
- 1.6 Lowering the surface water sewer increases the risk of water from canal flowing back up surface water sewer.

The applicant, in response, has submitted a cover letter by 20TEN studio and a report from *SC4 Planning and Development Consultants* dated 3rd February 2023. The report is overview of the contact between themselves and the SDCC Surface Water Drainage Department, following opinion was presented with the report noting the Surface Water Drainage Department's refusal reasons:

21019

**PROPOSED DWELLING AT NO. 46A LIMEKILN ROAD,  
WALKINSTOWN, DUBLIN 12**

**Downes Associates Response to Notification of Decision to  
Refuse Permission**

**Ref: SD22A/0386**

Prepared For:  
Mr. John McWeeney

**Revision Register**

Revision	Description	Prepared By	Checked By	Date
0	Issued to Client	IC		13.06.23

## 1.0 Introduction

There follows a response to the relevant civil engineering aspects of the notification of decision to by South Dublin County Council. This refers to Planning Register Reference SD22A/0386.

### Reason 1

*The applicant proposes to develop south of the site outside their redline boundary. The implementation of works for a new concrete headwall is adjacent to the River Poddle that is outlined in the South Dublin County Council Development Plan 2022 – 2028, figure 4.4: Green Infrastructure Strategy Map as the River Poddle Link (Secondary GI Link under L13). Furthermore, the Planning Authority consider that the proposal in its present format contravenes GI3 Objective 1 and GI3 Objective 2 and would adversely impact the integrity of the riparian corridor to be maintained and enhanced having regard to flood risk management, biodiversity, and ecosystem service provision, water quality and hydro morphology and would not be in accordance with the proper planning and sustainable development of the area and would be prejudicial to public health and, therefore, should be refused.*

### Downes Associates Response to Reason 1

The headwall is proposed as a simple and very common outfall detail. It is proposed as a measure to improve the existing situation. The headwall would be constructed in precast concrete so as not to have any impact on the issues mentioned above. It could however simply be omitted if SDCC prefer and the outfall match the existing detail.

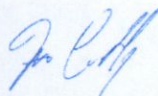
### Reason 2

*The concerns of the Surface Water Department are still required to be addressed. The proposal in its current format would be prejudicial to public health and, therefore, should be refused for the following reasons:*

- (1) no 3m setback distance from the side of a 300mm public surface water. There is an existing structure located within a wayleave.*
- (2) no 5m setback distance between the proposed building and a soakaway in the rear of the site.*
- (3) a 300mm surface water sewer passes through the site where the house is proposed. Water services do not recommend diverting the same to allow the proposed house to be developed. Additional bends are presented on a diverted surface water pipe, increasing the risk of blockages of surface water flow. This would also increase flood risk up stream of site.*

new dwelling ensuring that the pipe will be fully protected from any potential traffic loading that may arise.

(8) There is no proposal to lower the surface water pipe. In fact, the existing risk is to be greatly reduced via the introduction of a tideflex non return valve as proposed on our drawings.



Ian Connolly

B.E., CEng., Dip Struct Eng, Cert Eng, MIEI., MStructE.

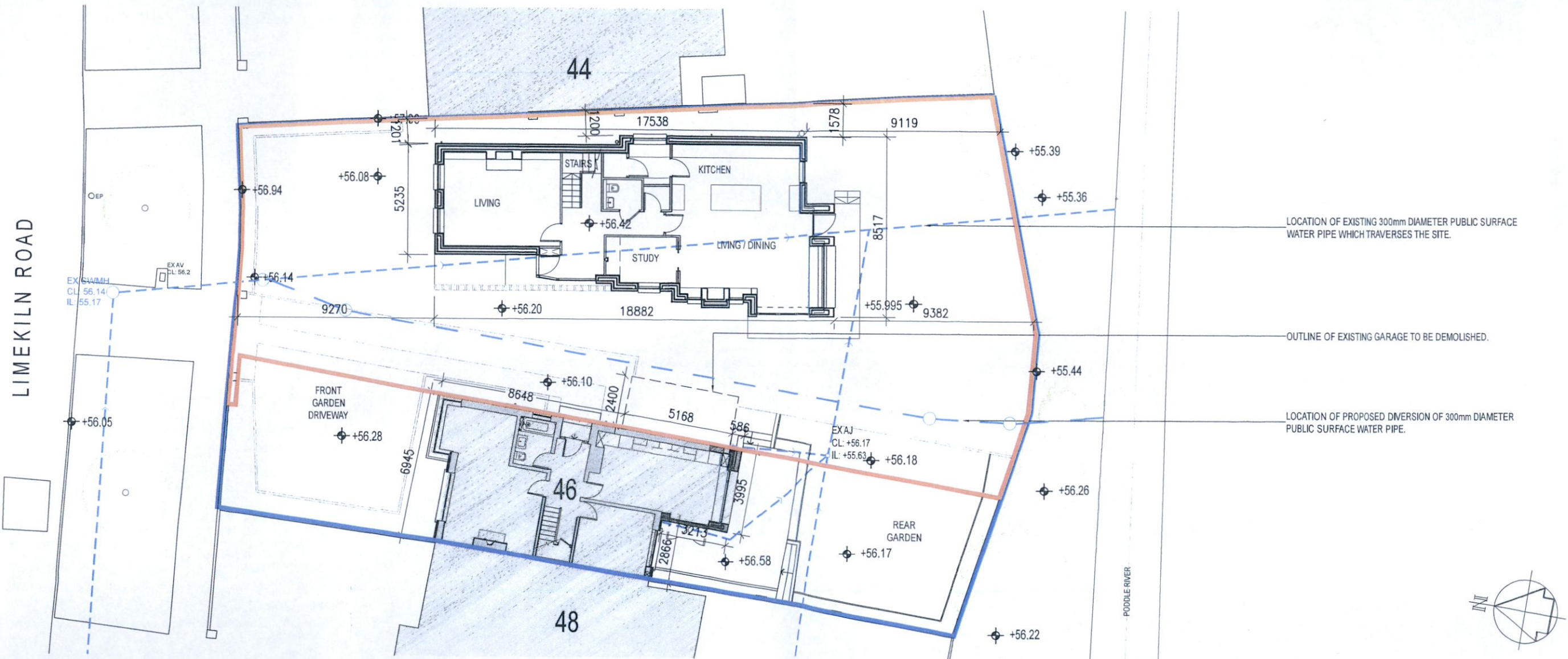
Chartered Engineer

Director

**DOWNES ASSOCIATES**

**NOTES:**

- RED OUTLINE INDICATES SITE BOUNDARY
- BLUE OUTLINE INDICATES LAND IN THE OWNERSHIP OF THE APPLICANT.
- - - EXISTING SURFACE WATER DRAINAGE ROUTE
- PROPOSED SURFACE WATER DRAINAGE ROUTE



PROPOSED GROUND FLOOR PLAN WITH EXISTING & PROPOSED SURFACE WATER DRAINAGE ROUTE INDICATED  
SCALE: 1:200

APPEAL TO AN BORD PLEANALA - PLANNING DRAWING

1. Copyright reserved.
2. Work to figured dimensions only. Do not scale drawing.
3. The contractor is responsible for checking all levels and dimension on site and shall refer all discrepancies to the Architect
4. Where appropriate, for details of r.c. structure, or mechanical and electrical details, see Engineers drawings
5. Proprietary items shall be fixed in strict accordance with manufacturers instructions.
6. Sizes of proprietary items shall be checked with manufacturer.
7. The contractor shall be responsible for the coordination of structure, finishes and services.

Modifications	Date	Rev.

46A LIMEKILN ROAD, D12 A020, DUBLIN 12						
PROPOSED GROUND FLOOR PLAN WITH EXISTING & PROPOSED SW DRAINAGE						
Date	Format	Drawn by	Number	Scale	Rev.	
19-06-23	A3	aoc	2001-PA-P006	1:200	-	-

**CLIENT :**  
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