



# **An Bord Pleanála**

## **Inspector's Report**

**PL06D.246501**

**DEVELOPMENT:-** Permission for development of centre of excellence for equine breeding and training on site to rear (west/northwest) of and adjacent to Kilternan Hotel, Aparthotel and Sports Complex at Kilternan, Co. Dublin incorporating part of the former Kilternan golf course and adjacent agricultural lands. Development to consist of stable building including horse boxes and studio / dorm rooms, gallops, parade circuit, equine pool, agricultural shed, parking, access road, retaining walls, landscaping, boundary treatment and all associated site development works and services.

Development is within the curtilage or attendant grounds of Kilternan Golf and Country Club, a protected structure.

### **PLANNING APPLICATION**

**Planning Authority:** Dun Laoghaire Rathdown County Council

**Planning Authority Reg. No.:** D15A/0453

**Applicant:** Luke Comer

**Application Type:** Permission

**Planning Authority Decision:** Refuse Permission

**APPEAL**

**Appellant:** Luke Comer

**Type of Appeal:** First v Refusal

**Observers:** 1. Robert Harrison 2. An Taisce

**DATE OF SITE INSPECTION:** 19<sup>th</sup> July 2016

**INSPECTOR:** Mairead Kenny

## 1.0 SITE LOCATION AND DESCRIPTION

The site is between Enniskerry village (3km to the south) and Kiltiernan Village (2km to the north) and on the slopes of Ballybetagh Hill close to the county boundary between Wicklow and Dun Laoghaire Rathdown. The southern part of the applicant's lands are in Wicklow while all of the site of the proposed development is in Dun Laoghaire Rathdown.

The site is part of a larger holding in the applicant's ownership which contains a large commercial premises the Kiltiernan Golf and Country Club / Kiltiernan Sports Hotel. The leisure and hotel uses at this site have developed significantly over the years from a relatively small country club hotel with tennis, golf and a ski slope to its more recently constructed large scale facility with a range of permitted hotel, apart-hotel, spa, conference and other associated uses. While the permitted developments are substantially complete, the hotel complex envisaged under the 2003/2004 permissions has not been realised. At present the uses on site are of a temporary nature and the site is being used as a filming location, currently for a series by Netflix and previously apparently by RTE.

The permitted hotel development comprises a 128 bedroom hotel with golf clubhouse facility, conference facilities, bar/restaurant, spa and banqueting facilities and separate leisure centre with indoor tennis, swimming and ancillary, gym facilities and outdoor floodlit tennis courts, all served by deck level over surface car-parking, a total of 570 spaces, and by new, on-site foul and surface water disposal facilities and water supply. Another permission provided for a 78-unit apart-hotel on 4 levels over under-croft car parking of 36 spaces. These two substantial developments are positioned in the immediate vicinity of the former Springfield House, a protected structure. The ski slope remains in operation at the applicant's holding. The golf course which was in place is now severed by a horse gallops which runs through the northern part of the site.

The stated area of the applicant's landholding at this location is 122.52 hectares. The holding has road frontage at the east (R117) and western sides. The regional road is relatively busy and not particularly well aligned but there is a large vehicular entrance to the landholding at that point. At the time of inspection the activities on site included some construction as well as filming, both of which appeared to be generating significant levels of traffic.

The entrance layout appeared to be catering adequately for the traffic generated. The minor road to the west of the holding is Killegar Road and this also appears to cater for a relatively high level of traffic generation due to the leisure activities (including Killegar stud and equestrian business) and residential development. It is a narrow road and there is access to the house on the land holding ('Eagle Lodge'), which is at the southern end of the lands.

The site defined for the application comprises a long narrow strip of land in the centre of the holding. The site area is 36.9 hectares. It abuts the regional road at one point to the northeast. The gallops as constructed in fact extends beyond the defined site and into a field abutting a private laneway to Verney House. The gallops runs through the former golf course. It extends from the northern end of the site and rises towards the southern end of the site. For the most part it is raised above ground by a height of 1.5m, but it also contains sections which are at grade and an area in a cut of about 3m depth. At the main bend in the southern end of the gallops route there is an elevated section where there is an embankment of about 4m. The gallops is nearly complete and is finished in sand and shredded rubber and on a foundation of broken rock some of which may have originated during the construction of the hotel complex. There is a reference in the written submissions also to the importation of rock for this construction.

The general trend in topography over the land holding is a rise from the east to the west. At the southern end of the landholding is a small hill which at the time of inspection was being used as grazing for horses. The holding wraps around another small wooded hill, owned by a third party. The site at the position of the gallops rises from about 138mOD at the northern end to 245mOD at the south. The site at the location of the proposed buildings varies from about 240mOD to 220mOD. There is a relatively modest house known as 'Eagle Lodge' at this location, which is on lower ground than the site of the proposed buildings. At that house a number of agricultural buildings are being constructed. North of Eagle Lodge is 'Granite Lodge' which is owned by a third party and which is west of the proposed development. The land where the buildings are to be constructed is slightly undulating and overgrown. There are a number of fine trees nearby and in the vicinity of the gallops.

Photographs of the site and surrounding area which were taken by me at the time of inspection are attached.

## 2.0 PROPOSED DEVELOPMENT

Permission is sought for a development of an equine centre, which is of stated gross floor area of 10,627 square metres and which comprises

- a three storey stable / accommodation building to include a total of 160 horse box units, 36 studios for staff, internal and external tracks and viewing areas
- an agricultural shed of 2,500 square metres
- a parade circle
- an equine pool
- a 1.6km 8m wide exercise track (gallops).

The site access is to be taken from the Dublin-Enniskerry-Kilcroe Road (R117), which would connect the site to both the M50 and N11. The access is to be by way of the hotel.

There are no works to the protected structure.

The original proposal for an on-site treatment system was revised and connection to the foul sewer at the hotel is proposed.

The application is described in submissions received on the 14<sup>th</sup> of July 2015 as revised by further submissions received on 4<sup>th</sup> March 2016 in response to a request for additional information.

The application submissions include a number of specialist reports which were revised during the consideration of the application by the Planning Authority, the most significant of which are listed below.

### Application submissions

**Planning Report** - The development would contribute to realisation of policy E16 of the 2010 development plan.

**Landscape and Visual Impact Assessment** – this was revised by a further submission received on 4<sup>th</sup> March 2016.

**Construction Management Report** sets out the main parameters of the construction and environmental management.

## **Further information submissions**

**Appropriate Assessment Screening Report** – finding of no significant effects.

### **Arboricultural Assessment (Tree Survey)**

This describes the individual trees and the woodland blocks and hedgerows. It identifies a few areas of woodland which are remnants from an area of long established wood (Ballybetagh Wood). Due to the age of trees and the proposed management together with modern construction techniques there is stated to be little likelihood of further loss of trees. The arboricultural method statement refers.

**Ecological Impact Assessment** – survey data and assessment.

### **Bat Assessment**

**Landscape Works Specification and Maintenance Schedule** – technical details.

### **Landscape Design Proposals and Rationale Report**

**Landscape Lighting** – technical report including overspill images.

**Civil Engineering Infrastructure Report** - addresses services and flood risk. Includes outline of Silage Drainage System and water supply.

### **Traffic and Transport Assessment**

**Archaeological Assessment** – desktop based report – also comments on protected structure.

## **3.0 PLANNING HISTORY**

### **PAC/110/15**

The only record provided is from the prospective applicant. The Case Planner's report also refers to details of a meeting – the description of the development is provided. The nature, extent and scale of the development needs to be established and more details submitted on this matter and other items.

## **The Gallops**

Under RL3363 the Board decided that development of an unroofed fenced area for the exercising or training of horses is development and is exempted development. Class 10 of Schedule 2 of Part 3 of the Regulation refers.

## **The Kiltiernan Sports Hotel**

Under Planning Reg. Ref. D03A/0458 permission was granted for alterations and extensions to an existing hotel and associated leisure facility, including 80 no. additional bedrooms, golf clubhouse facilities and conference centre, extended bar/restaurant and kitchen, spa and reception facilities, banqueting facility, extension to existing tennis centre to provide additional gym/leisure centre facilities, floodlighting, additional car-parking facilities to provide total 570 no. car-parking spaces, new waste water treatment works, percolation area and outfall and decommissioning of existing waste water treatment works, surface water attenuation tank. This was extended to 2<sup>nd</sup> July 2014.

Under Planning Reg. Ref. D04A/1515 permission was granted for minor revisions to Reg. Ref. D03A/0458. This was extended to 8<sup>th</sup> May 2015.

Under Planning Reg. Ref. D04A/1502 permission was granted for development of a 78-unit apart-hotel on 4 levels over under-croft car parking (36 spaces), at existing hotel leisure centre complex, which is to be extended and modified. This permission was extended to 8<sup>th</sup> May 2015.

Planning Reg. Ref. D06A/0789 relates to a woodchip biomass boiler.

The Planning Authority indicates that there is no record of any relevant enforcement history to date. I note however that there is a record of some complaints relating to alleged unauthorised development.

## **4.0 PLANNING AUTHORITY DECISION**

### **4.1 Planning Authority Decision**

The Planning Authority decided to refuse permission for the reasons below:

- Materially contravenes national and local planning policy with respect to minimum floor area of residential units.

- Unacceptable and unnecessary visual impact in this sensitive high amenity area with preserved views and prospects – materially contravene Section 8.2.3.7 of the Dun Laoghaire County Development Plan 2016-2022.
- Scale and nature and operation hours would have an unacceptable impact on residential amenity.

## 4.2 Planning Reports

The original report of the **Case Planner** noted aspects of the LVIA including comments pertaining to the ZVI being 1km in range and the particular importance of views 5 and 5a from the Killegar Road. The planner identified a need to assess the view from Glencullen Village and Three Rock Mountain and to respond to the matters raised in the report of the Parks and Landscape Services. In addition the planner noted that the visual impact assessment of the gallops was not undertaken and the need to consider lighting. The blockage of the right of way access to the Enniskerry Road was noted and the applicant should be requested to identify proposals relating to the right of way within his lands.

The report of the **Case Planner** dated 31<sup>st</sup> March 2016 notes the further information received. The housing proposed is not short-term as it may be offered to a permanent member of staff for the duration of their employment and the residential element therefore must be assessed under the 2015 DoECLG Guidelines. Does not conform to the standards in the Guidelines and is therefore not acceptable in its current format at this location. The response to the question regarding use of the apart-hotel is noted. The Planning Authority has serious concerns regarding the large residential element of the proposal. It has not been demonstrated that the residential element cannot be reduced in scale or located elsewhere on site, including on the larger land holding.

Regarding the impacts on residential amenity the planner notes the parade ring is within 11m of Granite Lodge and given the scale of the proposed development and the operational hours of 630-2200 every day the development would have an unacceptable negative impact on residential amenities. Also there is insufficient information presented regarding public visits and the use of the viewing area.



The verbal report of the **Conservation Division** is that a development of the nature proposed would not result in any additional impact.

#### 4.3 Other Technical Reports

The report of **Transportation Planning Section** dated 29<sup>th</sup> March 2016 recommends clarification of additional information in relation to sightlines at Enniskerry Road, disabled parking space and cycle parking. The additional information received is noted including page no. 263\_10\_121, which shows the upgrade and restoration of the right of way.

The report of **Parks and Landscape Services** dated 29<sup>th</sup> March recommends clarification of additional information relating to impact on trees, whether landscape proposals correspond with arborists drawings. Photomontage 6 is considered inaccurate. Landscape proposals are well detailed and impact of gallops is slight.

The earlier report of **Parks and Landscape Services** dated 28<sup>th</sup> August 2015 notes that the exact route of the right of way needs further thought and also that the previous owner had agreed to the DMW going through these lands but that was not implemented.

The report of **Drainage Planning Section** dated 24<sup>th</sup> March 2016 notes the revised proposals to connect to the foul sewer. Surface water proposals are acceptable. Clarification of proposals for silage effluent and the protection of water courses is required.

The **Lighting** report dated 24<sup>th</sup> March 2016 states that lighting proposals are not an issue in terms of residential amenities as there are no adjacent residents. No objection subject to compliance with the Bat Assessment Report.

The **HSE** report dated 16<sup>th</sup> March 2016 stated that it had no issues.

The report of **Irish Water** dated 15<sup>th</sup> August 2105 recommends compliance with the Drinking Water Regulations. Further information demonstrating how that will be achieved is required.

#### 4.4 Prescribed Bodies

No submissions. An Taisce observation to the Board is summarised below.

## **5.0 GROUNDS OF APPEAL / OBSERVATIONS**

### **5.1 Grounds of Appeal**

The main points of the first party appeal are:

- This particular landholding has been significantly altered by the construction of an artificial ski slope and a hotel.
- The existing use is leisure in nature and the proposal seeks to reintroduce an agricultural use.
- The Inspector's report under RL3363 addresses aspects of the development which now fall to be determined in the current file.
- Extracts from that report provided refer, inter alia, to not contravening a condition of a previous permission, not interfering with the character of the landscape or protected views or prospects, not impacting on objects of archaeological interest or obstructing right of way or have significant effect on a European site.
- The Inspector has therefore concluded that the training track which covers the widest extent of the proposal before the Board is not inconsistent with the protection of any of the elements or issues set out above.
- The Planning Authority noted a number of issues favourable to the proposal including the zoning objective and policy E16.
- In response to Reason 1 of the decision of the Planning Authority the units are in the nature of dormitory rooms for staff working on the premises in a rural area, not apartments in the normal sense. Use of the hotel for this accommodation is unrealistic. The imposition of the national guidance is completely mistaken and could have been addressed by condition.
- Reason 2 does not stand up to scrutiny. The stable block would be to the rear of and screened from adjoining roadway by a very large hotel and is not going to be seen at all from the primary road. The view from Two Rock or Three Rock mountains is of the entire city and is one of bland suburbia. Any larger building provides an attractive counter point to the monotony. The buildings are attractive and should be celebrated in the landscape.

- Regarding Reason 3 ride outs and lighting and noises associated with the development situated in the lee of the hotel remote from residences is not likely to create any disamenity for residential dwellings.
- The proposal is a significant investment in the equine industry in the county where policy is to facilitate such investment, the training track which covers the greater area has been assessed and the buildings are in the lee of the hotel and will not injure the residential amenities of the area.
- Enclosed letter from Goffs refers to on-site accommodation for staff at all levels being an intrinsic part of equine operations and a requirement for training and breeding operations due to the need for constant care.

## 5.2 Observations

**Robert Harrison** makes the following points:

- Overdevelopment of the site making it unsuitable for horse training.
- A mountainous forested location is not normal for such a facility.
- The area is already overdeveloped with ugly buildings.
- Damage to the environment, to natural springs and water table and drainage.
- Additional traffic in the form generated will be a serious hazard to existing road users including cyclists.
- Rights of way over my land disputed totally – no access for over 20 years.
- A model is required.
- Would affect hunting rights and prohibit me using bird deterrents.
- Will affect my proposed house on my lands by obstruction of views and floodlighting and will affect my child who has epilepsy and is sensitive to light.
- Archaeological site should remain accessible.
- The track to the site has been installed and is different to that outlined under 15A/0453.

- Excavation and other unauthorised development has taken place and lands should be reinstated.
- Removal of trees is unacceptable.
- Impact on wildlife including bats and on my bee farm.

### **5.3 An Taisce**

The Board is requested to uphold the three reasons for refusal. The locational suitability of the site for an equine facility has not been justified on this elevated and exposed site. This is unrelated to existing facilities which are clustered in the Kildare and Tipperary areas. It constitutes an undesirable impact above the existing complex in a high amenity area which commands views over wide areas.

## **6.0 RESPONSES**

### **6.1 Planning Authority response**

The Planning Authority reiterated that the location of the site is in a high amenity area with protected views and prospects. Notwithstanding existing buildings on the overall holding would be unacceptable for the reasons identified in the planner's report. There is no objection to the gallops.

## **7.0 POLICY CONTEXT**

### **Dun Laoghaire Rathdown County Development Plan 2016-2022**

Policy E17 is to support and facilitate the development of the equine industry in the county and to promote it as a centre of excellence for the bloodstock industry. Special consideration will be given to facilitate the provision of residential accommodation on site in association with the development of horse breeding or equine facilities.

The zoning objective is 'G' the objective of which is 'to protect and improve high amenity areas'. Agricultural Buildings are 'open for consideration'.

Section 8.2.3.7 refers to Rural Non-Residential Development. As with rural housing the position is essentially restrictive and precautionary and applications will be assessed having regard to compliance with the zoning objective, need for such a use in the rural area and suitability of the site in

accordance with section 8.2.3.6(i), negative impacts which could result from the design, location, layout, size and type of the proposed development.

Map 13 shows listed views from the two main roads in the vicinity of the site and landholding. These are from Killegar Road (west of the holding) in both directions and from the Enniskerry Road to the east of the holding where the view to the south-west across the lands is identified.

Policy LHB14 is to preserve, promote and protect rights of way and to create and extend rights of way. It is an objective to secure the retention of those established rights of way as set out in Appendix 8. This references the route from Enniskerry Road opposite Kiltiernan Grange to Ballybetagh Road via Ballybetagh Wood.

There is an objective to retain trees and woodlands on the site and associated lands.

Map 13 shows a recorded archaeological monument to the east of 'Eagle Lodge' on the applicant's lands.

The old building in the centre of the re-developed Kiltiernan Sports Hotel previously known as Springfield House is a protected structure.

### **Wicklow County Development Plan 2010-2016**

The northern part of the county close to the site is designated as an Area of Outstanding Natural Beauty.

None of the listed views or prospects are relevant to the site.

### **Sustainable Urban Housing – Design Standards for New Apartments Guidelines for Planning Authorities**

Under the 2015 Guidelines there is provision for studio units. The requirement is that planning authorities facilitate the provision of studio apartment type developments in certain specific circumstances, such as part of new 'build-to-let' managed accommodation above a certain scale threshold, i.e. 50 or more units.

## **8.0 ASSESSMENT**

I consider that the main issues arising in this appeal relate to:

- the principle of the development

- the landscape and visual impact
- the residential units, including the reason for refusal of the Planning Authority
- tree removal and rights of way
- ecological and related impacts
- residential amenity
- traffic and transport
- other matters including the need for environmental impact assessment
- material contravention
- appropriate assessment.

### **Principle of development**

Reason 2 of the decision of the Planning Authority refers to the lack of justification for a development of this scale and the associated visual impacts. There is a requirement under section 8.2.3.7 of the plan that a restrictive and precautionary approach be taken to applications in areas of high amenity and to assess them having regard to compliance with the zoning objective and need for such a use in the rural area as well as the impacts arising.

In terms of the principle of the development I submit that it is appropriate to further consider the material considerations relating to the zoning objective and associated policies.

#### *Zoning and associated policy objectives*

The zoning objective 'to protect and improve high amenity areas' is the most restrictive provision in terms of the uses which are 'permitted in principle' as only 'open space' and 'travellers accommodation' are identified. Agricultural buildings are 'open for consideration' meaning that they may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects and would otherwise be consistent with the proper planning and sustainable development of the area.

The Planning Authority referenced the definition of agriculture contained in the PDA 2000 as amended and the stated purpose of the Equine Centre, which is for the

'rearing of a significant number of horses in preparation for careers in national and international racing'. I agree with the conclusion of the Planning Authority that the development would be classified as agricultural and that the development is open for consideration under the development plan.

The tests for acceptability under the zoning objective are:

- compatibility with the overall policies and objectives for the zone
- no undesirable effects
- otherwise consistent with the proper planning and sustainable development of the area.

In considering these matters at an initial stage I note the importance of the landscape and visual impacts of the development in the policy context for this area, which is assessed later.

The appellant places considerable importance in a policy context on the Council's objective to promote the county as a centre of excellence for the bloodstock industry and to recognise the positive contribution that the equine industry makes towards agricultural diversification and rural employment. The overarching policy for the industry E16, which was in place under the previous plan is effectively re-stated under policy E17 of the current plan.

The rationale for the development is outlined in the planning report submitted with the application. It states that development of a high quality centre of excellence for equine breeding and training and bloodstock facility is proposed. The facility is stated to rival similar facilities anywhere in the world. The applicant is making the application in his capacity as a horse trainer - he presently keeps 300 horses in training primarily on a 1,000 acre holding at Palmerston House and in Dunboyne. The Kiltarnan hotel is in the process of being transformed into a five star hotel. The proposed development will return an agricultural use to the holding. The varying topography is valuable for sports horse endurance training as racing on the flat is noticeably easier.

In the above statements the applicant presents his case for the selection of this site. The first party states that the development of a centre of excellence in a series of stages has commenced with the gallops, which has been determined to be exempted development under RL3363. I noted in this regard also that stables are under construction at present at 'Eagle Lodge'.

In relation to the applicant's justification for developing this facility I submit that the intention to proceed with a major equine facility is demonstrated and the applicant's background in this activity is also adequately addressed. Notwithstanding the topography and the distance from the traditional heartland of the industry I conclude that a development of this nature appears to be to be reasonable and feasible in terms of the requirements of the industry.

Regarding the residential element of the development, Policy E17 includes a provision for special consideration to be given to facilitate residential accommodation on site in association with the development of horse breeding or equine facilities. I note that the long working day is cited by the first party as part of the reason for on-site accommodation and that Goff's attest to the frequency of such accommodation being provided on similar enterprises. I consider that the residential element of the development is acceptable in principle.

I consider that the proposed development rests easily under the zoning objective, subject to the Board deciding that the development is acceptable in terms of landscape and visual impacts. There can be no question but that the proposed residential use is for the purposes of supporting the equine industry, being located over the stables. As such it too is acceptable in principle in my opinion.

Subject to landscape and visual impacts being positively assessed I consider that there is strong support in the development plan for a development of the nature of the type proposed. To secure the county as a centre of excellence for the bloodstock industry major facilities of the type envisaged are required. I conclude that the proposed development is acceptable in principle.

The Board may wish to consider the implications of the current application for the future use of the overall holding and whether the development would in any way militate against the future use as a hotel. The hotel has previously been referred to as a 'sports hotel'. It would have incorporated substantial conference, banqueting, tennis, spa, clubhouse and other facilities on the site. The ski slope remains operational at present. In the further information response the applicant makes a statement of intent to re-open the hotel and notes the small number of bedrooms relative to the large scale of the leisure and related facilities. The separation of the former hotel from the golf course might be deemed to constitute undesirable piecemeal development. Having considered the matter including the scale of the hotel, apart hotel and leisure facilities on the site, I consider that it is not reliant on the golf course or on any other use of the lands in the overall holding. I conclude that the separate development of part of the site for a use which is unrelated to the



existing leisure use of the site is acceptable in principle and would not be contrary to the proper planning and sustainable development of the area.

### **Landscape and visual impact**

The development comprises a number of distinct elements. The gallops has been deemed to be exempted development and is not objected to by the Planning Authority. The parade and the pool are similarly not of particular relevance in terms of visual impact of the development. I consider that in considering the landscape and visual impact the main focus of attention should be on the buildings. The primary building is the stables and accommodation building which is 103.5m long by 70.4m wide and of overall height of 14.4m. However, it is partly set into the topography and is therefore only 8.9m high on the northern side. The agricultural shed is at a lower level and is of a design and finish which minimises its obtrusiveness in the landscape as it is a common form. The stables / accommodation building by reason of its scale and its design would constitute the most significant landscape intervention in my opinion.

I refer the Board to the Landscape and Visual Impact Assessment report as supplemented by the further information presented which addresses more distance views. Following inspection of the site and surrounding area I agree with the following conclusions presented in the applicant's submissions:

- the development will not be viewed from the Enniskerry Road as it would be screened by the existing buildings and other features
- the impact will largely be confined to a 1km radius from the site and mainly affect the Killegar Road
- the stables building would be set into topography
- the visual impact would be mitigated by the design and finishes including the green tones selected for the aluminium panels and the green roof and the open atrium area in the centre.

In terms of the impact on the two roads in the vicinity from which there are listed views the main impacts will be at Killegar Road. I consider that the proposed stables building is well set back from the road, is well designed and set into the landscape. I do not consider that a refusal of permission is warranted for reason of its impact. The more utilitarian agricultural shed is in a way more acceptable, being a common form of structure in the rural landscape and in any case it is set at a lower level. The development would not in my opinion constitute an obtrusive feature in this high

amenity landscape and would not unduly interfere with the listed view from Killegar Road and would barely affect the Enniskerry Road views, if at all.

Regarding the views from a wider context the development will result in the introduction of number of large new structures into the rural area and these will be widely visible from the nearby mountain tops. I do not consider it reasonable to conclude in the context of the wider landscape, which includes large amounts of development, that the new structures would be described as visually obtrusive.

Regarding the night time impact of lighting I note that the proposals include a dimmer switch system at the parade and other locations and that lighting would be targeted to minimise overspill. Clearly there will be a material change arising at night-time but the measures to contain lighting, which are designed largely in the context of ecological mitigation, will mean that the visual impacts are minimised.

The setting is partly defined by the hotel and leisure complex, which is positioned just over 600m to the east. I note that the concerns identified in the planner's report include the elevated nature of the area, the scale of the development coupled with the plethora of existing dis-used buildings. Completion of the hotel scheme would assist in the integration of the overall lands. The development is of large scale and will give rise to landscape change. In my opinion the degree of change would be acceptable and would not warrant a refusal of permission. The development would not significantly detract from the listed views or from the character of the high amenity area.

### **Residential units**

Reason 1 of the decision of the Planning Authority refers to the residential units. The principle of residential development is accepted. The reason for refusal refers only to the size of the units, which at 32m<sup>2</sup> are below the national standard of 40m<sup>2</sup>, which has applied since the requirement that planning authorities facilitate studio apartments was introduced in 2015. The planner's report does not give an insight into the reason why this matter was not addressed by condition as suggested in the appeal. In the foregoing I propose to examine whether the national guidance is relevant.

The purpose of the accommodation is stated in the first party submissions to comprise dormitory style temporary accommodation for visiting training staff and jockeys who may be based there for short or long periods. The indicative numbers given in the response to the further information requested is a permanent staff of 40 grooms / jockeys and a temporary staff of 10 to 15. The latter figure will vary according to annual cycles and competitions. The period of occupancy would

parallel the period of employment. Each studio will have its own bed, kitchenette and toilet and be of gross floor area of 32m<sup>2</sup>.

Regarding the national guidance on this matter the main question is whether it should apply to a development of this nature. I note that the Planning Authority refers to the permanent nature of the employment. I agree that the many of the studios are likely to be occupied by staff the nature of whose employment is permanent. As such I consider that there is an argument that the Guidelines should apply. On the other hand I consider that there is a place for a development of this type which is akin to a residential institution. The Guidelines require that studio units be allowed in 'build to let' units of significant scale and the Guidelines refer to their occupancy by 'mobile workers'. The development proposed does not comply with the requirements in terms of the scale of the facility or the size of the units. However, the guidelines appear to me to relate largely to stand alone residential developments insofar as they refer to the future use of the units in the event that they are no longer 'work to let'. I submit that in this case there is no reasonable possibility of any separate future use and I consider that the development is also materially different to that envisaged in the guidelines. There is no indication that the units will be 'let' to the occupants. The inference is that they will be part of the employment package.

In conclusion, I do not consider that the nature of this development is of a type envisaged under the Guidelines. Regarding the size of the units I consider that it is reasonable to have regard to the particular nature of the residential accommodation, which I consider would be adequate for the purpose intended. In the event that the Board considers that the Guidelines should apply this could be addressed by condition requiring 40m<sup>2</sup> units. The Board could also consider attaching a condition limiting the use of the units to short-term accommodation in association with the use of the equine centre. I am unconvinced that this is necessary as the proposed use is clearly described on the application submissions. The Board may also wish to refer in the Direction to the almost unique circumstances arising in this case.

Having regard to the nature of the employment, the fact that the accommodation is to be provided as part of the employment package and to the site context, I am satisfied that the proposed development would cater appropriately for the needs of future occupants.

I note the reference in the Planner's report to the possible use of the substantially complete apart-hotel in lieu of constructing the studio units. The scheme provided for a 78-unit apart-hotel. The first party response to the further information request referenced economic factors related to the costs of re-opening the hotel to

appropriate standard. I do not consider that use of about half of the apart-hotel by riders / trainers is compatible with the hotel use. A use of that nature would be contrary to the proper planning and development of the area in my opinion as it would militate against the completion and occupation of the hotel.

I note that the planner's report also refers to the failure to investigate other possible locations on the holding for the residential development. There are lands at a lower elevation which might have been suitable as alternative locations for the residential development. I am not wholly convinced that the design solution presented which concentrates the residential development into a single building positioned on a sloping part of the site is likely to be inherently less preferable.

In conclusion I have no objection to the development of the residential units in principle or in terms of the number of units proposed or the detail of their design and layout, location and size.

### **Tree removal and rights of way**

The development plan objectives related to the site refer to the protection of trees and rights of way. The development of a gallops, which has been deemed to be exempted development necessarily involves some loss of trees in the tree lines. The route of the gallops has been cleared and there will be no additional loss of treelines or woodlands with the exception of trees identified for removal following an arboricultural inspection. These trees are at the southern end of the gallops adjacent the proposed parade. The first party submission is that there is no loss of trees which are veteran or specimen species and that a positive impact is recorded due to the proposed planting of new trees.

In terms of whether the development plan objective to retain trees and woodlands is contravened I note that the southern part of the route of the gallops would involve removal of the trees identified as Grade 'C', containing a large amount of deadwood and in some cases having structures such as golf greens built into their root zones. These trees are generally considered to have an expected remaining contribution of about 10 years. At the very southern end of the gallops there are a number of Grade 'B' trees which have a likely lifespan of 40 years. These trees are positioned after Chainage 1500. In view of the high amenity zoning as well as the objective to preserve trees and woodlands these trees should be retained. The gallops should therefore terminate at a position at the 245m contour. This can be addressed by condition. The shortening of the length of the gallops as recommended would not overly interfere with the operation of the equine centre as the access from the main stables buildings to the gallops would be maintained. Secondly as described

elsewhere the gallops at its northern end has been lengthened and should therefore be adequate for the requirements.

In general the area for the built element of the scheme is composed of a combination of bare soil and improved agricultural grassland and is not an area where there are significant trees or woodlands. There is a strong treeline which separates the location of the main buildings / structures from the existing golf course / gallops site. This would be retained as part of the proposed development.

Subject to the recommended condition I am satisfied that the proposed development does not give rise to removal of trees and woodlands of significance and does not contravene the development plan objective. I note the outstanding concerns in the report of the Park and Landscape Services report but also that the overall recommendation from that section was not negative. I consider that any lack of clarity in relation to the impact on trees can be addressed as part of an agreement on landscaping details.

There are two indicated public rights of way on the development plan map, one of which runs through the recently constructed gallops on site and is relevant to the assessment of this application. The Dublin Mountain Partnership submission refers to the portion of the Dublin Mountain Way which is on the public road of which the Kilternan / Glencullen section is the most significant. In that context the full restoration of the right of way that is stated to exist through the site between Enniskerry and Ballybetagh Roads is required. The Partnership remained dissatisfied with the applicant's proposals.

The applicant states that he fully supports the principle of the upgrade and restoration of the right of way and will not impede the public right of way. The applicant also notes that part of the right of way is outside of his lands. Submissions presented include a proposal to fit 'kissing gates' which will provide for access while at the same time allowing the gallops to be defined. Secondly the applicant proposes to install a free-draining compacted gravel bed to demarcate and make passable the right of way.

I noted at the time of inspection that the gallops (as constructed) at the location of the stated right of way is marginally above the level of surrounding lands. The difference in levels at this point is not significant and the gallops does not pose a barrier to the crossing through the site from Enniskerry Road to the west. The application drawings indicate that the gallops would not impede the right of way.

The third party submissions which refute the existence of any right of way through these lands is noted. The existence of an old granite stile, which is described and

photographed in the Archaeological Assessment report attests to the previous existence of such a route. Whether that can now be enforced is not a matter for consideration under this application in my opinion. The proposal subject of the appeal has been designed to facilitate such access and I recommend that this be clarified by condition.

### **Ecological impacts**

The consultant's report notes the presence of five broad habitat types in the study area. Drainage ditches are of minimal fisheries value. Sitka deer prints are recorded throughout the site and there is an extensive active main badger sett. There are no alien species and no Annex I species.

The potential impacts of the development in the construction phase appear to be minimal. The design of the gallops is stated to ensure that the integrity of the watercourses is maintained. No bat roosts are affected and the badger sett is 270m from the main construction zone, which appears to be sufficient to avoid any impacts. The attenuated surface water will percolate to ground. Due to lack of hydrological connection there is no impact on nearby Ballybetagh Bog a nearby proposed Natural Heritage Area.

In terms of the matters identified in the Ecological Impact Assessment and the independent review report of Scott Cawley I consider that the only matter of significance in terms of the Board's decision is the impacts on bats. There are no known bat roosts within 1km of the construction area. However, a number of species are present and both positive and negative effects may arise. Potential for positive effects arise due to the presence of horses and the pool which may encourage insects. Potential for negative impacts requiring mitigation relates to the felling of trees and source of lighting. The latter is addressed in some detail in the technical reports, which indicate that lighting should be a narrow beam highly directional source allowing for 3 lux at ground level and responding to a trigger and being capable of dimming. After mitigation there will be a short-term negative impact but no measurable impact on the conservation status of any bat species. Bat boxes and provision for access to buildings are recommended. After mitigation the impacts to bats would constitute a minor loss of foraging routes from the removal of trees and a slight negative impact due to lighting.

I consider that the potential for effects on the ecological resources of the area has been adequately addressed. Subject to a condition requiring implementation of the recommendations of Bat Assessment report I consider that the development would not give rise to significant adverse consequences for the area.

## **Cultural Heritage**

The potential archaeological impacts are presented in a specialist report received by the Planning Authority as further information. This report based on desktop work notes the Recorded Monument, which is in the south-eastern corner of the land holding in the vicinity of the proposed agricultural shed. A number of features are noted as being of archaeological potential including high points and a townland boundary. Heritage features include tree lines and styles.

The potential impact on the recorded monument is perhaps the most significant issue identified in the first party submissions. This is the site of an enclosure marked on the 1<sup>st</sup> edition map. There were no visible traces of the Recorded Monument during a site inspection by National Monuments Service according to their records. I consider that the recommendation in the archaeological assessment report that a detailed programme of test-trenching should take place in that area is reasonable. This can be addressed by condition. Further archaeological work may be required in pre-construction stage and in the construction stage monitoring of groundworks is required. I consider that all of these matters should be addressed by condition.

The site is close to the protected structure the former Springfield House. This dates to the 1830s and was described at the time as a 'handsome modern mansion, commanding fine views of the two Sugar Loaf Mountains and the adjacent country'. The protected structure is now enveloped within the large hotel development and the applicant's submission is that the proposed development would not now be considered to fall within the curtilage or the attendant grounds of the protected structure. The Council's Conservation Officer advised that the protected structure is lost within the context of the existing development and that its setting, amenity and appreciation of the form of the historic building has been severely compromised by previous developments. I agree with this comment and the conclusion that the proposed development would not materially affect or detract from the building.

The archaeological assessment report notes that tree lines on the site are heritage features. I have addressed this matter elsewhere and consider that there is no reasonable likelihood of significant adverse impacts.

In conclusion I consider that subject to the attachment of a condition regarding archaeological investigation and monitoring as set out in the Archaeological Assessment report, the development is acceptable in terms of impacts on cultural heritage.

## **Residential Amenity**

I note that one observer has identified a number of concerns regarding effects on residential amenity of his proposed house and on existing and future activities on those lands. These include a large bee farm and plans for commercial growing. There are a range of objections made, including in relation to the gallops, which I address later. Regarding the observer's property I am not convinced that sufficient evidence has been presented to demonstrate that the use of his lands would be so adversely affected as to warrant a refusal of permission. I consider that it is likely that the lands may be affected by construction phase noise and dust but that would be normal in many urban and rural areas and of short-term duration. The longer term operational impacts related to noise, lighting and traffic would not give rise to large adverse effects and would not unduly interfere with the use of the lands or its residential amenities in my opinion.

The impact on the observer's property does not appear to have contributed to the refusal of permission by the Planning Authority – reason 3 refers to scale and operational hours and the report indicates concern relating to Granite Lodge. The impact of the proposed development on residential amenities is largely restricted in my opinion to the single house in the vicinity of the parade.

The rear of Granite Lodge is presently planted by significant numbers of evergreen trees, which will act as a buffer to the parade ring, the element closest to the house. The house is about 100m from the edge of the parade ring. The view from the first floor rear of Granite Lodge will be towards the main stables block and the agricultural shed. This view will be materially altered by the proposed development. The shed is to be sited at lower ground which greatly minimises any potential impacts and the main accommodation / stables building is to be well designed and finished and is separated from the residential house. None of the structures proposed would sufficiently impact on the residential amenity as to warrant a refusal due to their visual impact.

The intensity of the use of the operation is cited in the planner's report as being of concern. I agree with the applicant's statement that the ride outs and lighting and noise associated with the development, which is fairly remote from residences would not create significant disamenity.

I note that the planner's report identifies a concern relating to the use by the public of the viewing area which would be parallel with the parade ring. The applicant has indicated that there would not be any public uses. This can be addressed by condition.



I recommend that the Board overturn reason 3 of the decision of the Planning Authority.

### **Traffic and Transport**

The development will contain 35 car parking spaces and all traffic will access the R117 through the existing development entrance. This requires works to the permitted road part of which is not currently passable and which is outside the site but within the hotel complex. I consider that it would be appropriate to ensure by condition that all traffic for construction and operation phase use the regional road access only and not avail of any other potential routes from the Killegar Road direction. The latter road is not of suitable standard to accommodate any further significant levels of traffic.

Picady analysis undertaken indicates that the main junction at the regional road will continue to operate efficiently with a minimum spare capacity of 89% in the second design year of 2032. TRICS information for equestrian sites which is used as the basis for this assessment is provided in Appendix 1.

I note that the Planning Authority indicated a requirement for cycle spaces. Having regard to the nature of this facility and the spacious grounds I do not consider that this is a significant issue.

### **Other issues**

One observer refers to a range of other issues including the impacts due to flooding and on springs and the water table. I do not consider that the development is likely to give rise to significant effects in terms of the local water table, or water quality, which impacts would be temporary in duration and not likely to be significant. I consider that there is no basis for the observer's comment relating to flooding, which matter has been addressed in one of the consultant's reports and discounted as an issue.

Regarding the extent of the gallops which has been constructed on site, any enforcement is strictly a matter for the Planning Authority. Any decision by the Board in relation to this appeal can only be based on the drawings and details presented and do not confer any status on any other structures which have been built. The referral case has been described above and may also be relevant but again that is a matter for the Planning Authority to consider.

Regarding the need for an EIS the application submission notes that there is no specific categories in the regulations.

## **Material Contravention**

The first two of the reasons of the decision of the Planning Authority refer to material contravention of the development plan policies in relation to the size of the residential units and the impact on the high amenity materially contravening section 8.3.2.7 of the development plan.

Regarding reason 1 this can be addressed by condition. In that context the matter of material contravention does not arise. For this reason I recommend that all units be 40m<sup>2</sup>.

Regarding reason 2 my opinion is that the scheme has been adequately justified as required under section 8.3.2.7 and the high amenity landscape would not be unduly affected.

There are limited circumstances under which the Board can grant permission where the Planning Authority has refused permission citing a material contravention. The Board should first determine whether the policies have been materially contravened. I am of the opinion that these policies referenced in reason 2 are not materially contravened as I consider that the development is adequately justified and would not be deemed to detract from the listed views / landscape.

I consider that it is open to the Board to grant permission notwithstanding the references by the Planning Authority in reasons 1 and 2 to material contravention.

## **Appropriate Assessment**

The application submissions include the AA screening statement prepared by Openfield Ecological Services in respect of the referral case which related to the proposed gallops. It concluded that there are no pathways and for that reason effects on any European Sites cannot arise.

There are four Natura 2000 areas within 5km of the site. There are no pathways between the subject site and these areas, the nearest of which are Ballyman Glen SAC and Knocksink Wood SAC, both 2km away. There are no ecological corridors or hydrological links between the site and any Natura Site. No significant effects are likely.

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, no appropriate assessment issues arise.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

It is considered that the proposed development should be granted for the reasons and considerations hereunder.

### **REASONS AND CONSIDERATIONS**

Having regard to:

(a) the objective of the Dun Laoghaire Rathdown Development Plan 2016-2022 to promote the county as a centre of excellence for the bloodstock industry

(b) the design and siting of the main stable building, the location of the agricultural shed and the proposals for lighting and landscaping

(c) the planning history relating to the gallops and

(d) the zoning objective for the area under which agricultural uses are open for consideration

It is considered that subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of development in this rural area, would not interfere with the protected views or detract from the landscape, would not contravene policies relating to tree protection and rights of way, would be compatible with the permitted uses at the overall holding and with existing land uses in the vicinity, would be acceptable in terms of existing and future residential amenities, would not have a significant effect on the environment of any designated Natura 2000 site or site of ecological interest, would not have a detrimental impact on archaeological and architectural heritage and would be acceptable in terms of traffic safety and in accordance with national guidance relating to new residential development.

It is considered that the proposed development, which constitutes a major equine centre, would contribute significantly to the development of the bloodstock industry in the county and would be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars submitted on the 4<sup>th</sup> day of March, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

The development shall have regard to the recommendations contained in the Bat Assessment and Archaeological Assessment.

**Reason:** In the interest of clarity.

2. The minimum size of the residential units shall be 40 square metres.

**Reason:** To ensure that the development complies with the requirements of the Dun Laoghaire Rathdown Development Plan 2016-2022.

3. There shall be no public access to the facility and no events shall take place.

**Reason:** In the interest of clarity.

4. The gallops shall terminate at Chainage 1500 and not extend beyond the 245mOD level.

**Reason:** To minimize loss of trees.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This scheme shall include the following:

- (a) Contoured drawings showing –
  - (i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal
  - (ii) the establishment of predominantly native and naturalised woodland and hedgerow incorporating species, variety, size, type, number and location of all trees and shrubs
  - (iii) any hard landscaping works, including car parking layout, enclosed areas, and lighting, specifying surfacing materials
- (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established
- (c) A timescale for implementation [including details of phasing], which shall provide for the planting of to be completed before the development is first made available for occupation.
- (d) Full details of the right of way through the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

7. All foul effluent and slurry generated by the equine sectors of the proposed development shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

**Reason:** In the interest of public health.

8. Prior to commencement of construction, details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

9. The internal road network and access serving the proposed development, including turning bays, junctions, parking areas, footpaths, cycle parking and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

All access for the operational and construction phases shall be by way of the existing entrance at the regional road.

**Reason:** In the interest of amenities and public safety.

10. Public lighting shall be provided in accordance with a scheme, which shall incorporate measures to minimise overspill and to protect bats, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the development.

**Reason:** In the interest of protection of visual amenity and bats.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, on site car parking for construction vehicles and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Mairead Kenny**  
**Senior Planning Inspector**  
**2<sup>nd</sup> August 2016**