



An
Bord
Pleanála

Inspector's Report PL.06S. 247795

Development	Bungalow on footprint of original house, alteration of vehicular access and associated site works.
Location	Lower Castlekelly Road, Glenasmole, Dublin 24.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD16A/0347
Applicant(s)	Ronan Gough
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First v Refusal
Appellant(s)	Ronan Gough
Observer(s)	An Taisce
Date of Site Inspection	31 st March 2017
Inspector	Susan McHugh

1.0 Site Location and Description

- 1.1. The site is located in the Glenasmole Valley within the Dublin Mountains approximately 4kms south (straight line) of Tallaght. It is a short distance (c. 500m) above the Glenasmole Reservoirs/Bohernabreena. The River Dodder is approx. 200m to the south at its closest point.
- 1.2. The site is triangular in shape with an area of 0.4 ha. The roadside boundary is defined by a post and wire fence, the road frontage extending to approx. 166m. The boundaries to the south, east and south west are defined by drainage ditches, post and wire fencing and some planting. A drainage ditch also runs across the centre of the site. The ground conditions would indicate poor drainage with evidence of reeds and rushes and surface water ponding. The site layout plan indicates a rise from 181m above O.S. Datum in the east to 187m above O.S. Datum to the west. However, from visiting the site it is evident that the site falls from east to west. There is an existing floor slab from the former house on site. There is an existing vehicular access to the site.
- 1.3. The site is relatively exposed within the local landscape with limited planting along its boundaries.
- 1.4. It is located on the southern side of a relatively straight section of the Lower Castlekelly Road. This is a relatively narrow road, with room for one car to pass comfortably.
- 1.5. There is a relatively newly constructed house located opposite the site to the north and a cluster of houses and farm buildings are located to the west, separated from the appeal site by two fields.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of a single storey detached bungalow. The floor area is 107m². The site layout plan describes the house as a three-bedroom dwelling house but the floor plans indicate two bedrooms only. There is a porch to the front and a patio area to the rear. The dwelling is to be finished in cedar cladding on the north, east and west elevations with sand and cement nap

render finish to the rear south facing elevation. The dwelling is to be located on the floor slab of the original dwelling near the western boundary of the site and set back from the drainage ditch that crosses the site.

- 2.2. It is proposed to serve the dwelling by a new private well water supply located uphill and to the rear of the proposed house and a septic tank located to the front of and downhill of the proposed house. The dwelling faces north and onto an access driveway from Castlekelly Road. It is proposed to alter the existing vehicular entrance to the site including partly setting back the front site boundary to provide for vision splays.
- 2.3. The application is accompanied by an Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the above described development for nine reasons:

1. Non-compliance with requirements of Policy H23 and materially contravenes the provisions of the South Dublin County Development Plan 2016-2022 and would be contrary to the zoning objective for the area.
2. Non-compliance with the Regional Planning Guidelines for the Greater Dublin Area 2010-2022.
3. Materially contravene Policy HCL8 of the Development Plan 2016-2022 and materially contravene the zoning objective for the area which seeks 'To protect and enhance the outstanding natural character and amenity of the Dublin Mountains.
4. The proposed development would lead to a demand for uneconomic provision of services and would set an undesirable precedent for other similar developments.
5. Constitute undesirable ribbon development on a substandard rural road network and would endanger public safety by reason of traffic hazard or obstruction of roads users.

6. Prejudicial to public health and materially contravene development objectives indicated in the South Dublin County Council Development Plan 2016-2022 for the conservation and preservation of a European site insofar as the proposed development would adversely affect natural habitat types in Annex I of the Habitats Directive.
7. Non-compliance with Policy HCL7 'to preserve and enhance the Character of the County's landscapes particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity'.
8. Materially contravene the Green Infrastructure Policies G1, G2 and G3 and objectives contained within the South Dublin County Council Development Plan 2016-2022.
9. Non-compliance with the Heritage, Conservation and Landscape policies and objectives contained within the South Dublin County Council Development Plan 2016-2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report dated **29/11/16** notes that permission has been refused twice on the site for the same applicant. Since the last refusal, a new County Development Plan came into operation in June 2016 and the site is now zoned objective HA-DM in the South Dublin County Council Development Plan 2016-2022 which seeks 'To protect and enhance the outstanding natural character and amenity of the Dublin Mountains'.

The report includes:

- The proposed dwelling is open for consideration as it is located below 350metre contour and is an area where development is not restricted, having regard to the Restricted Areas Map contained in Schedule 4. The Glenasmole/Bohernabreena Housing and Planning Study (Nov 2002) has been superseded by the County Development Plan 2016-2022 which contains Policy H23 Objective 2, which states 'to generally prohibit development within

restricted areas identified on the Bohernabreena/Glenasmole Reservoir Restricted Area Map contained in Schedule 4.

- As the proposed dwelling is located on the footprint of an original dwelling house the proposal is considered under Policy H23 (which relates to new or replacement dwellings), and the applicant does not comply with the Councils rural housing Policy H23. The proposal is not considered to be a replacement dwelling and therefore Policy H25 does not apply.
- The proposed development would be contrary to the settlement strategy within the Regional Planning Guidelines for the Greater Dublin Area 2010-2022.
- With respect to the scale, design and visual impact, it is considered that the proposed dwelling by reason of its location on an exposed site would contravene the specific objective 'To protect and Preserve Views' across the site and detract from the open character and natural beauty of the surrounding Dublin Mountain area.
- It is noted that the contour levels indicated on the site layout plan do not tally with the contours on the ground.
- The proposed road frontage complies with the requirements of Section 11.3.4(ii) of the Development Plan but because of the dwelling house constructed across the road the proposed development would give rise to ribbon development.
- The site is located in the Dodder and Glenasmole Character Area, one of the five Character Areas identified in the Landscape Character Assessment for South Dublin County, and the proposed development would be contrary to Objective HCL7-1.
- The proposed development has not overcome any of the previous reasons for refusal under SD15A/0124 and SD15A/0344.

3.2.2. Other Technical Reports

The **Roads Area Engineer** in a report dated **18/11/16** recommends a refusal on the grounds of a traffic hazard by reference to ribbon development, and the substandard local road network.

Water Services in a report dated **09/11/16** recommends no objection subject to conditions.

Landscape and Open Space Planning in a report dated **17/11/16** recommends further information.

The **EHO** report dated **23/11/16** recommends further information. The report notes;

- That much site improvement work has been carried out.
- A drainage ditch bisecting the rear and front of the site has been dug with a 6-inch drainage pipe laid in the bottom and the trench filled with aggregate. The ditch and pipe extends in both directions to the boundary hedges of the site. The presumed effect is to reduce the saturation of the front portion of the site (which is the location of the proposed dwelling and sewage treatment system).
- A new site assessment submitted showing site improvement works and an improved site drainage is confusing. It appears to be constituted from trial holes and P and T tests carried out at different times.
- The minimum separation distances required for such a development are not achieved. By modifying the site drainage to drain the top half of the site to the drainage ditches, these are now effectively watercourses and the proposed soil polish filter is less than 10 meters from these ditches, and less than 10 meters from the proposed dwelling.
- Further information was recommended seeking a) a site assessment clearly and unequivocally contemporaneous to the time frame of the current planning application and b) a configuration of the layout of the site with the recommended separation distances achieved.

3.3. Prescribed Bodies

A submission was received from **An Taisce** which refers to:

- noncompliance with all the requirements of Policy H32 for new dwellings on lands zoned Objective H, (note policy reference is incorrect and should be H23)
- prejudice the sustainable achievement of the Regional Settlement Strategy as set out in the Regional Planning Guidelines
- contravene a specific objective in the County Development Plan to 'Preserve Views',
- lead to a demand for uneconomic provision of services and set an undesirable precedent
- prejudicial to public health.
- rather than building an additional house an extension onto the parents' house would provide an alternative solution.

3.4. Third Party Observations

Three Councillors submitted letters supporting the application including C. O'Connor, S. Holland and R. McMahon.

A petition type submission with a covering letter was submitted with approx. 30 signatures from public representatives.

4.0 Planning History

SD15A/0344 Permission refused for a similar application by the same applicant for 5 reasons:

- Non-compliance with all the policy requirements of Policy H32 of the Development Plan 2010-2016 and materially contravene of the zoning objective 'H' 'to protect and enhance the outstanding natural character of the Dublin Mountain Area'.

- Contravene the settlement strategy within the Regional Planning Guidelines for the Greater Dublin Area 2010-2022.
- Materially contravene Policy LHA 2 of the Development Plan 2010-2016 and materially contravene the zoning objective for the area which seeks 'To protect and enhance the outstanding natural character of the Dublin Mountains'.
- Lead to uneconomic provision of services and set an undesirable precedent.
- Prejudicial to public health and materially contravene development objectives indicated in the South Dublin County Council Development Plan 2010-2016 for the conservation and preservation of a European site insofar as the proposed development would adversely affect natural habitat types in Annex I of the Habitats Directive.

SD15A/0124 Permission refused for a similar application, by the same applicant for 5 similar reasons.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016 - 2022

- 5.1.1. The site is zoned **Objective 'HA-DM'** which seeks '*To protect and enhance the outstanding natural character of the Dublin Mountains Area*'.
- 5.1.2. The Development Plan's rural housing policy seeks to restrict the spread of dwellings in the Dublin Mountains and to focus such housing into existing settlements. In this regard, the following policy applies:

- **Policy H 23:** Rural Housing in HA – Dublin Mountains Zone

5.1.3. Rural Housing in HA Zone

It is the policy of the Council that within areas designated with Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin

Mountains Area) new or replacement dwellings will only be considered in exceptional circumstances.

H23 Objective 1:

*‘To consider new or replacement dwellings will only be considered in exceptional circumstances where **all** of the following criteria are met:*

- *The applicant is a native of the area; and*
- *The applicant can demonstrate a genuine need for housing in that particular area; and*
- *The development is related directly to the area’s amenity potential or to its use for agriculture, mountain or hill farming; and*
- *The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.’*

H23 Objective 2:

‘To generally prohibit development within restricted areas identified on the Bohernabreena /Glenasmole Reservoir Restricted Areas Map contained in Schedule 4.’ (The appeal site is located in an area where development is open for consideration).

5.1.4. **Policy H25 Objective 1:** - *‘To favourably consider applications for replacement dwellings within areas designated with ZoningObjective ‘HA – Dublin Mountains’ (to protect and enhance the outstanding natural character of the Dublin Mountains Area) where the Planning Authority is satisfied that all of the following criteria are met:*

- *There is a genuine need for replacement or refurbishment of the structure; and*
- *The roof, internal walls and external walls of the structure on site are substantially intact; and*
- *The structure on site is a habitable dwelling and its use as a habitable dwelling has not been abandoned (for a period that exceed 5 years); and*

- *The structure on site is of limited value in terms of built heritage, character and visual amenity; and*
- *The replacement dwelling would largely occupy the same footprint, scale and location of the dwelling to be replaced, save in exceptional circumstances where the Planning Authority agrees a more favourable position in the context of the development management criteria outlined in Chapter 11 implementation.'*

5.1.5. 'Residential' is open for consideration, in accordance with Council Policy for residential development in rural areas, and is not permitted above 350m contour.

5.1.6. **Heritage, Conservation and Landscapes (HCL) Policy 7 Landscapes**

It is the policy of the Council 'to preserve and enhance the character of the County's landscape particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.'

HCL7 Objective 1: *'To protect and enhance the landscape character of the County by ensuring development retains, protects and, where necessary, enhances the appearance and character of the landscape taking full cognisance of the Landscape Character Assessment of South Dublin County (2015).'*

HCL7 Objective 2: *'To ensure that development is assessed against Landscape Character, Landscape Values and Landscape Sensitivity as identified in the Landscape Character Assessment for South Dublin County (2015) in accordance with Government guidance on Landscape Character Assessment and the National Landscape Strategy.'*

5.1.7. The site is within **Landscape Character Area 4**, River Dodder and Glenasmole Valley.

5.1.8. There is a specific objective in the Development Plan '**To Preserve Views**' across the site from Castlekelly Road, and along a number of public roads at upper levels to the east.

5.1.9. **Heritage, Conservation and Landscape (HCL) Policy 8 Views and Prospects**

It is the policy of the Council '*to preserve Views and Prospects and the amenities and features of natural beauty or interest including those located outside the County.*'

5.1.10. **Heritage, Conservation and Landscapes (HCL) Policy 9 Dublin Mountains**

It is the policy of the Council '*to protect and enhance the visual, recreational, environmental, ecological, geological and amenity value of the Dublin Mountains, as a key element of the County's Green Infrastructure network.*'

5.1.11. **Heritage, Conservation and Landscapes (HCL) Policy 12 Natura 2000 Sites**

It is the policy of Council '*to support the conservation and improvement of Natura 2000 sites and to protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence of or integrity of a Natura 2000 site.*'

5.1.12. **Infrastructure & Environmental Quality (IE) Policy 2 Surface Water & Groundwater**

It is the policy of the Council '*to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.*'

IE2 Objective 8 : '*to protect salmonid water courses, such as the Liffey and Dodder Rivers catchments (including Bohernabreena Reservoir), which are recognised to be exceptional in supporting salmonid fish species.*'

5.1.13. **Policy H26** sets out the policy of the Council in relation to occupancy conditions.

5.1.14. In addition, **Policy H27** sets out the general design considerations that will be applied to housing proposals that accord with the Development Plan's rural housing policies.

5.1.15. Section 11.3.4 Rural Housing Design – minimum road frontage of 60 metres.

5.1.16. In respect of domestic effluent disposal, where a treatment plant is proposed, solution shall comply with the Code of Practice 'Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <10) (Environmental Protection Agency, 2009 or other superseding standards.

5.1.17. The site is located within the Rural Hinterland Area Fig. 1.1 : South Dublin Core Strategy Map.

5.1.18. **Policy G1** sets out policy of the Council in relation to Green Infrastructure which seeks *'to protect, enhance and further develop a multifunctional Green Infrastructure by building an interconnected network of parks, open spaces, hedgerows, grasslands, protected areas, and rivers and streams that provide a shared space for amenity and recreations, biodiversity protection, flood management and adaptation to climate change.'*

5.2. Sustainable Rural Housing Guidelines

The site is located in a rural area under strong urban influence, as set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in April 2005.

5.3. Natural Heritage Designations

The following European sites are located within a 15km radius of the appeal site:

Site name	Designation	Site Code	Distance
Glenasmole Valley	SAC	001209	200m NW
Wicklow Mountains	SAC	002122	220m W
Wicklow Mountains	SPA	004040	1km SE

Knocksink Woods	SAC	000725	8.8km W
Ballyman Glen	SAC	000713	12km W
Poulaphouca Reservoir	SPA	004063	10km SW
Red Bog Kildare	SAC	000397	3.8km NW
South Dublin Bay	SAC	000210	14km NE
South Dublin Bay & River Tolka Estuary	SPA	004024	14km NE

6.0 The Appeal

6.1. Grounds of Appeal

The applicants' grounds of the appeal can be summarised as follows:

- The proposed development is open for consideration within the zoning objective and is not located above the 350m contour or within any restricted area as identified in the Bohernabreena/Glenasmole Reservoir Restricted Areas Map (in Schedule 4) as subject to Policy 23 Objective 2.
- None of the issues raised in technical reports received by the planning authority comprise sufficient or substantive grounds for refusal of the application. The responses received from the EHO and Parks and Landscaping Department could have been addressed by condition.
- The reference to the style, size and height of the proposed house in the submission from An Taisce is factually incorrect. The proposed house is half the originally proposed floor area and associated bulk and has a reduced ridge height. The proposed house complies with the requirements of the rural housing design criteria, and the visual assessment provided demonstrates that the proposal would not lead to a visual intrusion.
- The applicant does comply with all the criteria in relation to complying with the housing requirements and has a genuine local housing need. Highlights the

fact that their housing need is rural generated and not urban generated, and that part-time farming is a valid occupation.

- The reference to the site being located with a designated Green Belt and Rural Hinterland of the Dublin Metropolitan Area under the Regional Planning Guidelines 2010 -2022 is not relevant. A balance needs to be achieved between the genuine housing needs of the local rural community and its protection from development.
- A number of photographs of the appeal site from surrounding roads and vantage points demonstrating the visual impact.
- Where an applicant meets the Council's very stringent rural housing criteria and policy considerations, then the proposed development does not set an undesirable precedent.
- The site is technically suitable to accommodate the proposed waste water treatment system.
- The suggestion by An Taisce to extend the applicants parents' house is not an option technically or socially.
- The applicant notes the significant support from local representatives within the area.
- The proposed dwelling does not constitute ribbon development and is at some remove from other houses apart from the house across the road.
- The roads are not heavily trafficked and the speed of cars is slow.
- Need for a balance between the various policies and provisions in the County Development Plan with respect to the protection of the Dodder and Glenasmole Landscape Character Area and facilitating genuine local housing need.

The appeal is accompanied by a letter dated 2nd November 2015 which refers to the previous applications on the site, and a report which is largely in the context of the previous County Development Plan 2010-2016.

6.2. Planning Authority Response

The submission notes the following:

- The planning history on the site
- The Applicant's non-compliance with Rural Housing Policy
- Protected views and prospects
- Cumulatively harmful to the outstanding character and visual amenity of the surrounding Dublin Mountains
- Undesirable ribbon development on a substandard road network in the area
- Contrary to the Landscape Character Assessment
- The sensitive location, upstream of Glenasmole SAC, which forms part of the County's Green Infrastructure network
- The waterlogged site, which could be prejudicial to public health.

The Planning Authority draw the Boards attention to recent Google satellite imagery which appears to show works taking place on the site i.e. foundations, hard standing and pathways/drainage works being put in place. These works were not visible on the day of site visit although it was noted that more gravel/hard standing than on previous site visits was in place close to the site entrance.

The Planning Authority invite the Board to compare satellite imagery from Bing Maps and Google Maps to see the difference over a short period of time and how the site has changed. The original site, when first visited, comprised of a grassed over foundation of a previous structure and significant vegetation was present on site, all of which appear to have now been removed.

The Planning Authority is still of the opinion that permission should be refused.

6.3. Observations

An Taisce made a further observation which can be summarised as follows:

- Support South Dublin County Council in their refusal to grant planning permission for this development.
- This is the third application by this applicant on this site and all have been emphatically refused by the County Council.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I consider the key issues in determining this appeal are as follows:

- Compliance with Rural Housing Policy
- Landscape and Visual Impact
- Impact on Ground and Surface Water
- Access and Road Safety
- Appropriate Assessment
- Material Contravention

7.2. **Compliance with Rural Housing Policy**

Reasons for refusal no. 1, 2 and 4 relate to non-compliance with Development Plan policies. The site is located in an area close to the outskirts of Dublin City, in the Dublin Mountains where pressure for rural housing has been experienced and policies targeted at its control are contained in the County Development Plan. The first reason for refusal refers to the zoning and the failure of the applicant to demonstrate compliance with the Development Plan policies.

Section 2.5 of the operative Development Plan sets out the general rural development objectives to be considered when assessing an application for a dwelling in a rural area.

Policy H23, in relation to new or replacement dwellings in areas such as this, requires a number of criteria to be met. Having regard to Policy H23 Objective 2 and to the Restricted Areas Map, the appeal site is located in an area where

development is not restricted and is open for consideration. However, the application is still assessed in accordance with the requirements of Policy H23 Objective 1.

It is noted that the public notices refer to the proposed dwelling being located on the footprint of the original dwelling. I would agree with the Planning Authority in their assessment that the proposed development cannot be considered as a 'replacement dwelling' in accordance with Policy H25 as the only evidence of the previous dwelling on site is the original floor slab. The applicant submitted a letter stating that the previous dwelling was last inhabited in 1985. However, there is no other evidence of the previous dwelling on site.

In relation to Policy H23 the applicant has submitted information in order to demonstrate that they are a native of the area, have a genuine need for housing in that particular area and that the development is related directly to its use for agriculture, mountain or hill farming. The documentation on file provides the following information in the context of the requirements of the County Development Plan policies and objectives:

- The applicant is indigenous to the rural area and has lived in the family home St. Annes, Glenasmole, Bohernabreena since birth together with his parents. In support of this numerous documents and statements, specifically, a Birth Certificate dated 24 Feb 1983 with the family address at St. Annes, Glenasmole, Bohernabreena, a letter from the Principal, dated November 2014 confirming the applicants' attendance at the local primary school. A utility bill dated March 2011 and bank statement dated April 2015 confirming the applicant's residence in the area. Letters from a neighbour, residents and employer confirming the applicants address, employment, interest in farming, involvement with the local rural community.
- A letter from the applicants' mother, Mrs Sheila Gough (St. Annes, Glenasmole) dated September 2015, confirming that her son (now aged 32) currently lives at home with his parents.
- A letter from Mrs Gough confirming that the applicant provides care and assistance to his father who has health issues and has extremely limited mobility. A letter from Mrs Gough's employer (HSE) dated October 2015

confirming her employment and hours, a letter from medical security in relation to the applicant as the emergency medical point of contact for Mr Gough (the applicants' father), a letter from the applicants' fathers doctor dated January 2015 outlining his medical history.

- The applicant runs a part-time farming enterprise in the area. A sample sheet from sheep dispatch/movement control from Dept. of Agriculture confirming the applicant's sheep flock number and involvement in farming and agriculture in the area was submitted.
- The part time sheep enterprise requires him to live near his sheep and the lands on which he has grazing rights. A letter from Macra na Feirme dated March 2015 confirming the applicants' membership and activities in relation to farming and agriculture within the area, and a letter from Teagasc dated April 2015 confirming the applicants' ownership of land and grazing rights within the area were submitted. These areas are identified on an attached map.
- A letter of employment from Curran Auto Services Friarstown, Bohernabreena confirming the applicants' employment since 2006, as workshop Manager in addition to his full-time occupation which relates to vehicle repairs.

I have examined the documentation on file and carefully considered the points made with regard to both national policy as set out in the DOEHLG Sustainable Rural Housing Guidelines for Planning Authorities and the rural housing policies of the County Development Plan. The Planning Authority have taken the view that the applicant's full time employment 'as an on-duty workshop Manager with Curran Auto Services Friarstown, Bohernabreena, and the proposed dwelling would not be related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming.'

Having regard to the information submitted with the application and appeal I am satisfied that the appellant does not comply with the provisions of Objective H23. The applicant has not adequately demonstrated that the proposed dwelling would be related directly to the areas amenity potential or to its use for agriculture, mountain or hill farming as his full-time employment is as on on-duty workshop Manager with Curran Auto Services, Friarstown. As such, I consider the applicants need for a dwelling in this particular area has not been justified. Policy 23 also requires that

proposed development would not prejudice the environmental capacity of the area. It is considered that the proposed dwelling would detract from the open character and natural beauty of the surrounding Dublin Mountain Area, and as such would prejudice the environmental capacity of the area.

I consider the proposal therefore is not in compliance with the Development Plan policies, which are considered reasonable and are in accordance with the Sustainable Rural Housing Development Guidelines for Planning Authorities, and that this is a reason to refuse permission.

7.3. Visual and Landscape Impacts

Reasons for refusal no. 3, 7, 8 and 9 relate to the visual and landscape impacts of the proposed development. There are specific objectives in the Development Plan 'to Preserve Views' across the site from the public road adjoining the site, and from several public roads at upper levels to the east of valley.

The site is 200m from the Glenasmole special area of conservation to the north west. Moreover, I note the visual impact issues were one of the principal reasons for refusal on the previous applications.

The applicant in their appeal makes the case that the site is not readily visible from any public road and is in fact well screened by existing hedgerows along public routes. Nine no. medium and long distance viewpoints are identified and photographs submitted from different vantage points from the north west, north, north east and east and generally from the opposite side of the valley. They also state that the landscape and planting scheme proposed will ensure that the proposed house would be integrated into the landscape.

I have examined the viewpoints in turn and the observations made by the applicant in relation to visibility, existing screening in terms of vegetation along the adjoining public roads, existing vegetation closer to the site, and the existing house located opposite the appeal site. The site is visible from viewpoints 2, 4 and 5 from the north and north west, but the longer distance views 6-9 demonstrate that the site would not be clearly visible.

I would accept having driven along the public roads at upper level on the opposite side of the valley to the east that there are indeed limited views from this road to the appeal site owing to mature hedgerows along the road. There are, however, open views of the valley and the appeal site from Cunard Road Upper which is higher and located further to the east. I would also note that there are protected views along these roads in the current County Development Plan.

I note the landscaping plan submitted with the application and that the Parks Department in their report considered that a more detailed landscape plan would need to be submitted and agreed. I did observe some new planting had been implemented on site in particular along the front roadside boundary and to the rear. However, the site is exposed by virtue of the removal of existing mature hedgerows along the boundaries to the rear.

Having visited the site and considered the views from surrounding roads, particularly from the upper level road to the north east of the valley, I consider that the proposed dwelling by virtue of its location in a valley on an exposed site, albeit modest in height (6.3m), scale and bulk would still be a visual intrusion in the landscape and would detract from the natural character of the area and contravene Policy HCL8 Views and Prospects.

The site is located in an area designated on Map 11 of the Development Plan 'to protect and enhance the outstanding natural character of the Dublin Mountains'. I would concur with the Planning Authority that any increase in development in this area will have a negative impact on the landscape.

It is considered therefore, that the proposed development would be contrary to Objective HCL7-1 and HCL8-1 and HCL 9 and that this is a further reason to refuse permission.

7.4. Impact on Ground and Surface Water

Reason for refusal no. 6 relates to the proposed waste water treatment system. The proposed wastewater treatment system has been assessed with regard to the guidance provided in the EPA wastewater treatment manual *Treatment Systems for Single Houses* (2009), to the site characterisation form and documentation on file, to the planning history and to the site inspection.

The Site Characterisation Form on file indicates a groundwater protection response of R21, i.e. acceptable subject to normal good practice. The site has a sand and gravel sub-soil and the water table encountered was at 1.25m. The 'T' test result as indicated is 103.67 minutes, and the 'P' test result is 68 minutes. These results would indicate a fail. It is noted, however, that the report submitted by the manufacturer of the treatment plant refers to different results for the site, indicating a 'T' value for the site of 62.54 and a 'P' value of 45.75. There are clearly anomalies between the two reports. It is proposed to treat effluent via a proprietary waste water treatment system (P.E. 6) involving a secondary and tertiary treatment with a polishing filter. Treated effluent at the base of the filter would discharge to a 900mm thick sub layer of sand and gravel and then to ground water.

I would have several concerns about the suitability of this site for a wastewater treatment. According to the EPA guidance, a 'T' result over 50 indicates that the site is unsuitable for a septic tank due to the possibility of ponding.

The report of Environmental Health Office noted the over-all drainage of the site as poor. They note the presence of clusters of rushes on the rear half of the site and the water-logged appearance of much of the site. They also noted the water table at a depth of less than one meter, and that one of the soakage test holes was water logged. I also observed surface water ponding at the site during site inspection, even after a dry spell, and high water levels in the four no. trial holes on site, and water in the drainage ditches running along the boundaries of the site.

In addition, I note the misleading site level information, indicated on the site layout plan, which shows site contours rising from east to west, when in fact, as referred to in section 1.2, the site falls from east to west.

I also note the separation distances of the proposed waste water treatment system to these ditches, and the proposed house and the EHO's report that minimum separation distances required are not achieved.

Having regard to the EPA *Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses* (EPA 2009) particularly in relation to separation distances, the existing ground conditions which indicates poor drainage and a high water table, the planning history on the site and the proximity of the site to the Glenasmole SAC, it is considered that the submitted information is inadequate to

assess the site suitability. I am not satisfied that the site is suitable for wastewater treatment and I consider this to be a further reason to refuse permission.

7.5. Access and Road Safety

There is an existing vehicular entrance to the site and it is proposed to set this back from the Castlekelly Road. Refusal reason no. 5 refers to the proposed development giving rise to a traffic hazard. The planning authority notes that the site provides a road frontage of approx.166m which complies with the requirements of Section 11.3.4 of the County Development Plan.

It is proposed to carry out works to set back the front boundaries on either side to improve sight distances to give 90m clear vision east and west from the vehicular entrance. The Castlekelly Road is straight and relatively narrow at this point. The proposed works to an existing vehicular entrance will improve the sight distances. The development would not involve substantial volumes of traffic. Having inspected the site, I am satisfied that the proposed works are satisfactory on this basis and would not give rise to a traffic hazard or endanger the safety of other road users.

Refusal reason no. 5 also refers to the proposed development constituting undesirable ribbon development on a substandard rural road network. While it is noted that there is a relatively recently constructed house located opposite, I do not consider that the proposed development would give rise to ribbon development. The Castlekelly Road as mentioned earlier is narrow and the proposed vehicular entrance is located opposite the existing house to the north. While the road rises to the east, it is considered that the proposed works to the entrance would allow for a safe access and egress to the site.

7.6. Appropriate Assessment

Reason for refusal no. 6 relates to Appropriate Assessment. The application was accompanied by a Natura Impact Statement dated March 2015 in support of the Appropriate Assessment prepared by FERS Forest, Environmental Research and Services Ltd.

7.6.1. **Project Description and Site Characteristics**

The proposed development is described in the report above and in the application documentation. It is proposed to construct a house with a waste water treatment system and percolation area on a site of 0.4ha. The site has been cleared and is likely to have supported a mixture of grassland and scrub. There are numerous drainage ditches, which appear to have been recently excavated (or cleared). The drainage ditches drain to the north-west corner of the site, where there is a drainage pipe under the road. It is likely that this drainage network discharges to a small water course approximately 100m to the north of the site, which discharges to the reservoir. Although much of the tree/scrub cover of the site have been removed, there is a Hawthorn hedgerow associated with the south-eastern site boundary.

7.6.2. **Screening – Stage 1**

The NIS confirms that the proposed development would not be located within a European site. The NIS identifies the following sites within a 15km radius of the appeal site:

- Glenasmole Valley SAC
- Wicklow Mountains SAC
- Wicklow Mountains SPA
- Knocksink Woods SAC
- Ballyman Glen SAC
- Poulaphouca Reservoir SPA
- Red Bog Kildare SAC
- South Dublin Bay SAC and
- South Dublin Bay & River Tolka Estuary SPA.

I have had regard to the NIS Stage 1 screening assessment which has determined that all sites identified be carried forward to Stage 2 appropriate assessment. I

concur with the determination of the need to carry out a Stage 2 appropriate assessment, but only in relation to one of the sites, the Glenasmole Valley SAC.

The proposed development is proximate to the River Dodder, and is located within approximately 200m of the Glenasmole Valley SAC. There is a drainage network that likely discharges to a small watercourse to the north of the site, which subsequently discharges to the Glenasmole Reservoir. Through surface and /or groundwater there are, therefore, several source-pathway-receptor linkages (S-P-R) between the proposed development and the Glenasmole Valley SAC. The development, therefore, has the potential to impact upon this Natura 2000 site through contamination of surface/ground water.

While I note the other nearest designated site is the Wicklow Mountains SAC, there are no ecological connections to this site as it is upstream from the appeal site. The other sites are located at some considerable distance from the appeal site.

7.6.3. Screening Conclusion

I am satisfied that all but one of these sites can be screened out of any further assessment because of the nature of the European site and/or the absence of any connection between the European site and the subject site, and having regard to the nature and scale of the proposed development, the separation distances to the European sites and the relevant qualifying interests and / or conservation interests.

7.6.4. Appropriate Assessment – Stage 2

The relevant European site is the Glenasmole Valley SAC, (map, conservation objectives and site synopsis are attached).

The generic Conservation Objective for the Glenasmole Valley SAC was updated by NPWS 15th August 2016.

The main conservation objective for the site is:

‘To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.’

Site Code, Site Name and Designation	Qualifying Interests
001209 Glenasmole Valley SAC	Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites), Molinia meadows on calcareous, peaty or clayey-silt-laden soils, Petrifying springs with tufa formation.

7.6.5. Potential Effects

The proposed development is not located immediately within the designated area and as such there will be no direct impacts upon that Natura 2000 site associated with the development.

The NIS concludes that the primary potential negative impact associated with the proposed development is indirect and involves a potential for contamination of surface water (during construction and/or the operational lifetime of the proposed development), and a resultant impact on a Natura 2000 site owing to the potential source-pathway-receptor linkage between the development and the Glenasmole Valley SAC.

- There is potential for contamination of ground and/or surface water occurring from the waste water treatment system during the operational lifetime of the development owing to any failure or inefficient operation of said system.
- There is potential for contamination of ground and/or surface water through contamination through fuel/lubricant leaks from vehicles/ machinery/ equipment.

I have identified the drainage ditches on the north western and lower part of the site with likely discharges to a water course to the north of the site, which subsequently discharges to the Glenasmole Valley SAC.

I am satisfied that while there is potential for contamination of ground and/or surface water through contamination during the construction phase, subject to standard practice and given the small scale of development, it is unlikely to arise.

As previously described in Section 7.4 above, I am not satisfied that the site is suitable for a wastewater treatment system given the separation distances to the drainage ditches, the existing ground conditions which indicate poor drainage and a high water table.

I consider that, given the sensitivities of the site as outlined in the NIS, there is a real potential for contamination of ground and/or surface water occurring from the waste water treatment system during the operational lifetime of the development. I cannot rule out therefore, that adverse effects could arise from the development. Additionally, the possibility of in combination effects cannot be excluded.

7.6.6. Appropriate Assessment Conclusion

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of the European Site No. 001209, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

7.7. Material Contravention

The Board will note that Reasons Numbers 1, 3, 6 and 8 of the decision of South Dublin County Council to refuse planning permission for the proposed development state that the proposed development would materially contravene the South Dublin Development Plan 2016-2022. Therefore, Section 37 (2)(b) of the 2000 Planning and Development Act (as amended) applies. This states :-

(2) (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the

Board may only grant permission in accordance with paragraph (a) where it considers that:

(i) the proposed development is of strategic or national importance

(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of the development, and permissions granted, in the area since the making of the development plan'.

Having considered the file, and the provisions of the Plans, as outlined above, I consider that the Planning Authority's conclusion that the development materially contravenes the Plan is reasonable.

In the circumstances, the Board would have to address itself to the requirements of this section in the event that it was minded to grant a permission in this case.

7.8. Recommendation

Having regard to the foregoing it is recommended that planning permission be refused for the following reasons and considerations.

8.0 Reasons and Considerations

1. The site is located in the Dublin Mountain Zone where it is the policy of the planning authority, as set out in the South Dublin County Council Development Plan 2016-2022, 'to protect and enhance the outstanding natural character of the Dublin Mountains' and to strictly control the development of new or replacement housing. It is also in an area identified

as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government 2005. It is considered that the applicant does not come within the scope of exceptional circumstances outlined in Policy H23 Objective 1 set out in the development plan for a house in this area. The proposed development would, therefore, materially contravene the development plan and be contrary to the proper planning and sustainable development of the area.

2. The site is located upstream of the Glenasmole Valley Special Area of Conservation (SAC), and in close proximity to the Glenasmole Valley and Bohernabreena Waterworks, the conservation and protection of which is an objective of the South Dublin County Council Development Plan 2016-2022. Having regard to the nature of the proposed development, which includes a proprietary waste water treatment system and percolation area, on a site where ground conditions are characterised by poor drainage and a high water table, and the proximity to the SAC and reservoir, the Board cannot be satisfied on the basis of the submissions made in the application and appeal that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of the sites conservation objectives. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed dwelling by reason of, (a) its location in an area of outstanding natural character as part of the Dublin Mountains which is visible from the surrounding hinterland (b) the Landscape Capacity, and (c) the Specific Objective 'To Preserve Views' across the site from the Lower Castlekelly Road would detract significantly from the open character and natural beauty of the surrounding Dublin Mountain area. The development would be contrary to Policy (HCL7), and the zoning objective 'To protect and enhance the outstanding natural character and amenity of the Dublin

Mountains' as provided for in the South Dublin County Council Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4. On the basis of the information submitted with the application and appeal, the Board is not satisfied that the subject site is suitable for the safe disposal of foul effluent arising from the proposed development. Accordingly, it is considered that the proposed development would be prejudicial to public health, would give rise to a serious risk of water pollution and would be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

25th April 2017