



An
Bord
Pleanála

Inspector's Report ABP-303572-19

Development	30 houses, new access, landscaping, boundary treatment and site development works.
Location	Kilteel Road, Crockshane, Rathcoole, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0242
Applicant(s)	Victoria Homes Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Victoria Homes Limited
Observer(s)	None
Date of Site Inspection	18 th April, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Rathcoole Village at the current development limit of the settlement. The site is accessed via a local road that runs to the south west in the general direction of Killeel.
- 1.2. The site is bounded to the north east by a community school and associated lands and to the west by individual dwellings. To the north, on the opposite side of the local road, there is a residential development under construction (Rathmill Manor) comprising c.113 no. two and three storey dwellings. Further to the north and north east there are established residential areas (Broadfield Estate).
- 1.3. A power line runs east – west across the site and at the southern end of the site there are twin 33 inch water mains that cross the site connecting Ballymore Eustace and Saggart.
- 1.4. The site is bounded by mature unmanaged hedgerows.
- 1.5. The site is relatively level and the stated area of the site is 0.969 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 30 no. houses on the site. The mix of units proposed comprises detached, semi detached and terraced units and comprises 6 no. two bedroom houses, 13 no. three bedroom houses and 11 no. four bedroom houses.
- 2.2. The site is proposed to be accessed from the public road via a new entrance that leads to an estate road running through the centre of the site with houses fronting onto both sides. An area of public open space is proposed to be provided towards the rear of the site where there is a wayleave that relates to a trunk watermain that runs through the site. A children's play area is proposed adjoining this area of public open space. Additional residential development is proposed at the rear of the site. The development is designed to be taken in charge on completion.

2.3. The dwellings comprise a mixture of two storey and two storey with attic / dormer accommodation in the case of the larger units. The proposed residential mix is as follows:

- 6 no. two bed units.
- 13 no. three bed units.
- 11 no. four bed units.

3.0 Planning Authority Decision

3.1. Further Information

Prior to issuing a notification of decision, the planning authority requested further information on a wide range of issues under the following headings:

1. Site layout and design including modifications to parking, greater separation between dwellings, the incorporation of the site boundary comprising mature hedgerow into public open space areas rather than being part of private open space, layout of public open space and play areas, use of shared surfaces and incorporation of SuDS features.
2. Surface water attenuation including additional details and calculations.
3. Foul water capacity including confirmation from Irish Water that the Tay Lane pumping station has capacity to cater for the development.
4. Provision of a greater wayleave around the existing watermains that cross the site and omission of Unit No.26.
5. Clarification regarding the location of utility boxes.
6. Clarification of inconsistencies between elevation, layout and landscape plans in certain locations.
7. Landscape design issues including a design rationale and landscape proposals to include retention of the hedgerow along the Killeel Road and introduction of homezones / shared surfaces.

8. Trees including a tree report and arboricultural impact assessment.
9. Details of play features.
10. Ecological assessment / screening report.
11. Bat survey.

The main additional information submitted and revisions to the proposed development submitted on foot of this further information request can be summarised as follows:

- The response to further information does not address the majority of the specific design issues identified in the further information request, notably with regard to number of units, location of car parking and layout relative to existing hedgerow boundaries.
- The site layout is amended to revise the location of dwelling No.26 to avoid it impacting on the wayleave. This is achieved by a change from semi detached to terraced units in this part of the site. The number of units is not proposed to be reduced.
- An engineering services report is submitted with the further information. This sets out the design calculations relating to surface water and foul drainage.
- Agreement in principle from Irish Water to a connection. This is subject to the upgrading of the Tay Lane pumping station the cost of which will have to be borne by local developers including that of the appeal site.
- Landscape design statement and arborist reports submitted.
- An ecological impact assessment is submitted which includes an assessment of the potential impact on bats.

3.2. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for 3 no. reasons that can be summarised as follows:

1. That the layout and design would be contrary to best practice urban design principles set out in the urban design manual and the county development plan. In particular, it is considered that the site specific features and constraints have not been adequately addressed in the development and that the design is overly 'urban' in character. It is therefore considered that the development would represent over development of the site and would seriously injure the visual and residential amenity of the area.
2. That the applicant has not demonstrated that sufficient surface water attenuation is provided to cater for the 1 in 100 and 1 in 30 year storm events and insufficient detail / calculations submitted. Proposed development therefore considered to be prejudicial to public health.
3. That the proposed development fails to respond to the existing hedgerow along the Killeel Road and along the eastern site boundary that would be largely situated to the rear of private gardens rather than public open space. The proposed layout has failed to demonstrate how these existing hedgerows can be integrated into the development contrary to the policies and objectives of the development plan.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the Planning Officer notes the contents of internal reports in particular the concerns of the water services department and Parks and Landscape Services. The overall layout of public open space, treatment of existing boundaries and density are considered the main issues and further information is recommended. Second report subsequent to the submission of further information considers that the basic issues regarding layout, drainage and treatment of existing mature hedgerow

boundaries have not been adequately addressed. Refusal of permission consistent with the notification of decision which issued is recommended.

3.3.2. Other Technical Reports

Environment – Further information required regarding surface water attenuation including calculations. Following submission of FI response, second report states that level of information submitted is insufficient and refusal recommended.

Parks and Landscape Services – Initial report further information required on issues of trees, layout of the open space areas, public realm, play areas, private open space and the submission of a bat survey. Following the submission of further information, a second report recommends a grant of permission subject to conditions. .

Roads – No objections.

EHO – No objection subject to conditions.

3.4. Prescribed Bodies

Irish Water – Initial report requests further information relating to the wayleave around the watermain on suite which should be a minimum of 8 metres. A second report subsequent to the submission of further information states that there is no objection subject to conditions including regarding the protection of the existing watermain.

An taisce – No specific objections identified in submission.

3.5. Third Party Observations

None submitted.

4.0 Planning History

The following planning history is referenced in the report of the Planning Officer and the first party appeal and is considered to be of relevance to the assessment of the case:

South Dublin Co. Co. Ref. SD17A/0040 – Permission refused by the Planning authority for the construction of 31 no. dwellings on the current appeal site comprising detached and semi detached three and four bed dwellings. Permission was refused for four reasons relating to the potential impact on the arterial watermain that crosses the site, the lack of capacity in the 150mm foul sewer on Killeel Road and the Tay Lane pumping station and prematurity pending the upgrading of this infrastructure and that the applicant has not demonstrated that sufficient surface water attenuation can be provided and lack of an adequate traffic impact assessment

South Dublin Co. Co. Ref. SD16A/0029 – Permission granted by the Planning authority for the demolition of existing school buildings and the phased construction of a part three, part two and part single storey new school building on lands located to the north east of the current appeal site. The development also provides for the reorganisation of the existing vehicular entrance and the provision of 97 no. car parking spaces.

5.0 Policy and Context

5.1. National Policy

Relevant policy documents include the following:

- Urban Design Manual – Best Practice Guide.
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities.
- Design Manual for Urban Roads and Streets,
- The Planning System and Flood Risk Management.

5.2. Development Plan

The appeal site is located on lands that are zoned Objective RES-N '*to provide for new residential communities in accordance with approved area plans*', under the provisions of the *South Dublin County Development Plan, 2016-2022*. There is no LAP for the area. Residential development is identified as being a permissible use on lands that are zoned Objective RES-N.

A long term road proposal for the Western Dublin Orbital Road (south) is located to the south of the appeal site and within c.650 metres of the site boundary at the closest point.

There are a significant number of policies and objectives contained in the County Plan that are of relevance to the appeal, including the following:

Housing policies relating to sustainable communities (H6), urban design and adherence to s.28 guidance (H7), densities (H8), residential design and layout (H11), public open space (H12), public and semi private open space (H13), internal layouts (H14).

Section 11.3.1 of the plan relates to residential development standards.

5.3. Natural Heritage Designations

The appeal site is not located within or close to any European site. The closest site is the Glenasmole Valley SAC which is located c.7km to the south east of the appeal site at the closest point.

It is noted that no appropriate assessment screening was submitted with the application to the planning authority.

5.4. EIA Screening

Having regard to the nature of the development, the limited scale of the proposed development in terms of the number of residential units, the likely environmental emissions generated and the separation of the site from significant environmental receptors, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party appeal:

- That the density of development on the site is 31.6 units / ha. this density is slightly below the development plan standard of 35 / ha. due primarily to the need to accommodate the wayleave that crosses the site. The proposed density is considered appropriate having regard to national policy, the constraints of the site, the transitional location and the fact that density was not referenced as an issue in the previous refusal of permission on the site.
- That the density excluding the wayleave is c.37 units / ha. The planning authority statement that the general plan policy of 35 units / ha. should be over ridden by the rural context of the site is contrary to Policy H8 objective 6 regarding the application of the Sustainable Residential Development Guidelines.
- That the decision of the Planning authority in Ref. SD17A/0040 refused permission for reasons that were engineering in nature. No reference was made to design or density considerations despite the basic layout being virtually identical to the current proposal. This is contrary to the provisions of 7.14 of the development management guidelines for Planning Authorities.

- The 2017 report stated that ‘the proposed new density for the site is 35.5 units / ha. which is acceptable for an outer suburban / greenfield site’. Submitted that to refuse the development on basis of over development or excessive density is fundamentally unfair and irrational regarding national policy.
- That the application was accompanied by an urban design statement which set out the design rationale and addressed the 12 criteria set out in the Urban Design Manual.
- That the revised information submitted removed unit 26 from the wayleave by converting semi detached dwellings into a terrace.
- That the parking layout is consistent with DMURS and reflects the comments contained in the planning Officer report on ref. SD17A/0040.
- That the separation distances between units meet the requirements of the development plan and urban design manual.
- That the planning authority do not want the playground located on the wayleave and the area chosen is overlooked and the subject of passive surveillance.
- That no Masterplan or LAP has been produced to guide development and the form of development proposed follows the precedent of the north west.
- That the development plan does not contain any policies relating to the ‘urban fringe’ and new development needs to be sustainable and to respect the site constraints.
- Regarding Reason for Refusal No.2 and the lack of demonstration that sufficient surface water attenuation is provided, a detailed analysis of the original assessment has been undertaken by JBA consulting. This assessment is submitted with the appeal. On site attenuation and discharge from the site at a maximum rate of 2.2 l/sec is proposed. The volume of storage accounts for the 1:100 year storm event plus a 10 percent margin for climate change.
- In response to Reason for Refusal No.3, detailed surface water calculations are submitted under the cover of a letter from Corrigan Hodnett Engineers.

- It should be noted that the reason for Refusal relating to the failure to respond to the existing hedge located on the eastern boundary of the site was not raised as an issue in the previous refusal of permission Ref. SD17A/0040.
- That Mitchel Associates Landscape Architects submitted a report as part of the further information response that reflected the results of the tree survey undertaken and the conclusions of the ecological report which stated that this boundary habitat is considered to be of negligible ecological value.
- The landscape report proposes to reinstate a managed hedgerow of native species along the northern (Kilteel Road) boundary and along the eastern boundary, the existing boundary hedge is proposed to be trimmed back and brought into a managed state and reinforced with new native species including whips and trees. A 1.8 metre high timber post and rail fence is proposed to the rear of the houses facing this boundary.
- That the reinstatement of the hedge along the Kilteel boundary will help to address the concerns regarding place making.

6.2. Planning Authority Response

The Planning Authority responded to state that it confirms its decision and that all issues raised in the appeal have been covered in the Planners Report.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Zoning and principle of development,
- Scheme design and layout,
- Unit design and layout
- Access and parking,
- Site servicing,

- Other issues,
- Appropriate assessment.

7.2. Zoning and Principle of Development,

- 7.2.1. The appeal site is zoned Objective RES-N (new residential) under the provisions of the *South Dublin County Development Plan, 2016-2022*. New residential development of the form proposed in the subject application is therefore a permissible use in principle on the appeal site.
- 7.2.2. One of the central elements in the assessment undertaken by the Planning Authority, and Reason for Refusal No.1 as included in the Notification of Decision to refuse Permission, relates to the overdevelopment of the site and, by implication, the excessive density of development proposed. The density of development proposed, including the area covered by the wayleave, equates to approximately 31.5 units per ha. and is therefore below the standard of 35 units per ha. set out in both the development plan (Policy H8) and the Sustainable Residential Development Guidelines for Planning Authorities. The appeal site can, in my opinion be considered to constitute an outer suburban or greenfield site and therefore, as per paragraph 5.11 of the Guidelines, the appropriate density should be *'in the general range of 35-50 units per ha.'* Paragraph 5.11 also states that *'development at net densities less than 30 dwellings per ha. should generally be discouraged.'*
- 7.2.3. In the case of the appeal site, the push for higher densities has to be set against the transitional location of the site. However, regard also has to be taken of the promotion of higher densities set out in the Sustainable Residential Development Guidelines and the constraints of the appeal site, in particular the significant area that is not available for development by virtue of the wayleave across the site. In principle, I do not consider that a gross density of 31.5 units per ha. is inappropriate for a site such as the appeal site located on zoned lands in a settlement located within the Dublin area. The proposed use of two storey plus dormer terraced and semi detached housing is, in my opinion, an appropriate format given the transitional location of the site and the context provided by surrounding residential development, including that currently under construction to the north west at Rathmill Manor.

7.3. Scheme Design and Layout,

- 7.3.1. The other element of the proposed development that forms the basis for Reason for Refusal No.1 attached to the Notification of Decision to Refuse Permission relates to contravention of design principles set out in the Urban Design Manual and the County Development Plan and that site specific features and constraints have not been adequately addressed in the design resulting in an overly suburban layout. Reason for Refusal No.3 makes reference to the failure of the development to respond to the existing hedgerows located along Killeel Road and the eastern boundary of the site, and that the development has failed to demonstrate how these hedgerows have been integrated into the development.
- 7.3.2. With regard to the overly urban and excessive density / overdevelopment of the site, as set out in 7.2 above, I consider that the basic density and form of development proposed is consistent with national policy and is appropriate for the location. In particular, I note the fact that significant changes to the layout to accommodate both the wayleave and ensuring that the hedgerow along the eastern boundary faces public amenity space would result in a very low density of development and a very inefficient use of zoned residential lands. I also note the fact that the basic form of development proposed is consistent with that currently being developed on adjacent sites.
- 7.3.3. In addition, I note that the option of consolidating the appeal site into a larger development site such as to enable alternative layouts to be pursued is not readily available due to the fact that the site is the last currently zoned site on this side of the Killeel Road, and that the adjoining lands to the north east are in educational use. Given the limitations imposed by the significant wayleave required on the site and the constraints in terms of site size and dimensions, I do not consider that it is feasible for the hedgerow that forms the eastern site boundary to be incorporated into public open space as proposed by the Planning Authority. In any event, the application documentation on file includes a landscape report prepared by Mitchel Associates, tree survey and an ecological report, and from my inspection of the site I would agree with the conclusions of these assessments that the hedgerow along the eastern boundary is significantly overgrown and requires thinning and reinforcement

with new native species. I also note the conclusions of the ecological report which indicates that the hedgerow is not of any particular ecological significance. This hedgerow, along with those located on the southern and western site boundaries, will be retained in the proposed layout and its ecological value, including as a potential bat habitat, will not be lost. Overall, it is my opinion that the proposed design and treatment of the existing hedgerow boundaries is acceptable given the site specific circumstances in this case.

- 7.3.4. Public open space is proposed to be provided in the area of the site where the wayleave is located and would be separated by the central access road in an area where a raised table is indicated. The combined area of the public open spaces areas measures c.1,990 sq. metres or c.19.5 percent of the total site area and is considered to be acceptable. A play area is indicated at the north west corner of the public open space area, and I note that some concern regarding the siting of this play area has been indicated in the report of the Planning Officer. Given that the Water Services Section indicate that the play area cannot be located within the wayleave for the trunk watermain, the options for the siting of this equipment are in my opinion limited. The play area would be overlooked by the adjoining house type A located to the north, and by units on the opposite side of the access road and the layout is in my opinion acceptable.
- 7.3.5. The first party appeal highlights the fact that the reason for refusal relating to the failure to respond to the existing hedge located on the eastern boundary of the site (reason No.3), was not raised as an issue in the previous refusal of permission Ref. SD17A/0040. This is noted, and I also note the conclusion of the second report from the Parks and Landscape Services Section which recommends conditions to be attached to any grant of permission.
- 7.3.6. In conclusion, I do not agree with the basis of Reasons for Refusal Nos 1 and 3 as they relate to the proposed layout and manner in which it addresses the site boundaries, in particular the eastern hedgerow boundary. As acknowledged by the first party and set out in the urban design statement submitted with the application, the site is subject to a number of constraints, in particular the requirement for a wayleave and the limited overall size and potential for amalgamation with other zoned lands. The applicant has undertaken an ecological assessment and tree survey of the boundary planting which details the limited ecological significance of

these features, and the proposed development will ensure that the existing hedgerows are maintained where feasible (eastern boundary) and reinstated along the roadside boundary. The proposed layout is, in my opinion an appropriate design response given the constraints of the site and forms the basis for a grant of permission.

7.4. Unit Design and Layout

- 7.4.1. The design of the individual units comprises a mixture of three and four bedroom units of two stories or two storey with attic accommodation. The internal layout is generally acceptable and consistent with the requirements of *Quality Housing for Sustainable Communities: Best Practice Guidelines 2007*.
- 7.4.2. Private open space to serve each units is proposed to be provided in the form of rear gardens. The area of these private amenity spaces was the subject of a request for further information, and the dimensions are illustrated on the revised drawings submitted with the further information response (Drg. No. 1812-SITE-0503). The relevant areas range between c.55 sq. metres and 125 sq. metres with the bulk of the units having private amenity spaces measuring 60-80 sq. metres. Independent access to the private amenity spaces is provided for the majority of the proposed units. The level of private amenity space provision is considered to be acceptable.
- 7.4.3. Reference is made in the request for further information to separation distances between units and the revised layout incorporated adequate separation between the backs and sides of units. In terms of back to back separation distances and the separation between dwellings within the development I consider that adequate distances are proposed and that the relationship between units is such that a loss of residential amenity will not arise.

7.5. Access and Parking,

- 7.5.1. Car parking requirements are set out at section 11.4.2 of the county development plan. The site is located in Zone 1 as per the development plan parking policy where a standard of 1.5 spaces per two bed unit and 2 no. spaces per three and four bed unit is applicable. The proposed development provides 2 no. car parking spaces per

residential unit with an additional 4 no. spaces proposed for visitor parking and the level of parking proposed across the site is considered to be acceptable. .

- 7.5.2. The layout of the car parking provision was the subject of some discussion during the course of the assessment of the application and the request for further information specified that all car parking should be incorporated within the curtilage of the residential units. This layout is proposed at the southern end of the site as well as the four units at the north east with the balance of 14 no. units having parking separated from the front of the units by the footpath. The first party response to further information sets out how the proposed parking layout is consistent with DMURS and a reduction in vehicle speeds and perceived road width as well as how the site constraints are such that the provision of additional off street parking is not feasible. I would not agree that the layout of units Nos. 5-12 inclusive could not be amended to provide for parking within the site curtilage, however such a layout would result in a long section extending from Nos.1-12, all having parking accessing directly onto the access road. The comments of the first party regarding the benefits of some variation in parking layout are noted and agreed with, and I consider the layout of the parking to be acceptable in principle.
- 7.5.3. Access to the site at the junction with the Kilteel Road is proposed to be via a new access point with the existing roadside boundary relocated to a new set back position and a 2.0 metre wide footpath provided to the site frontage. Visibility at the site access is acceptable and the proposals for the reinstatement of the front boundary with new indigenous planting as detailed in the submitted Landscape Design Rationale report prepared by Mitchell and Associates are noted and considered appropriate for this location.
- 7.5.4. It is noted that one of the reasons for refusal in the case of Ref. SD17A/0040 related to an inadequate traffic impact assessment submitted with the application. The current application is accompanied by a TIA prepared by NRB and contained at Appendix J to the Engineering Services Report submitted with the application. The submitted assessment takes account of existing and permitted developments in the vicinity of the appeal site and concludes that the proposed development would not have a significant effect on traffic volumes or congestion in the vicinity of the site.

7.6. Site Servicing,

- 7.6.1. Reason for Refusal No.2 attached to the Notification of Decision to Refuse Permission states that the applicant has not demonstrated that sufficient surface water attenuation is provided for the proposed development and that insufficient details and surface water calculations have been submitted. The issue of surface water was raised by the Planning Authority as part of the further information request issued where it was suggested that the extent of attenuation proposed was undersized by a factor of 4. In response to the FI request the first party submitted details of the proposed surface water attenuation system and calculations undertaken to support the design solution proposed. These calculations are set out in the submitted report from Corrigan Hodnett Consulting Engineers dated 16th November, 2018. The details relating to surface water contained in this submission include permeable and impermeable areas, infiltration coefficients and drawings of the proposed Stormtech drainage system. The site was the subject of infiltration testing the results of which are detailed in the report submitted as part of the FI response and the calculations are based on a 1 in 100 year storm event with a 10 percent account taken for climate change. The results of the assessment indicate that the total attenuation required is 164 cubic metres and that a total of 170 cubic metres is designed for.
- 7.6.2. The response of the Planning Authority to the further information response on the subject of surface water attenuation states that inadequate details regarding the calculations supporting the design have been submitted, and that it is estimated that the attenuation capacity is undersized by a factor of 290 percent. This would imply that the Planning Authority consider that the attenuation should be of the order of 490 – 500 cubic metres.
- 7.6.3. In response to Reason for Refusal No.2 and comments of the Planning Authority that the insufficient surface water attenuation is provided and inadequate details submitted, a detailed analysis of the assessment done by Corrigan Hodnett Consulting has been undertaken by JBA consulting and submitted with the appeal. This assessment analyses the proposed design including micro drainage calculations and the results are presented in a tabular format titled *Stormwater Audit (Stage 1)* and includes details relating to site areas, infiltrations results, rainfall levels, and SuDS measures. The design is based on a 1:100 year return storm event and a

factor of 10% to account for climate change is included. A number of recommendations are made, notable a slight increase in the attenuation capacity for catchment No.2 which is to be increased by a factor of three (from approximately 29 cubic metres to 87 cubic metres). The result of this amendment is that total on site attenuation would be increased to c.228.5 cubic metres.

- 7.6.4. The proposed 228.5 cubic metres remains significantly below the c.490-500 cubic metres that are considered appropriate by the Planning Authority however I consider that there are a number of issues that need to be highlighted relating to surface water attenuation and the position adopted by the Planning Authority in this case. Firstly, while the Water Services section have set out the degree to which it considers that the designed attenuation is deficient, no calculations or further justification for the figures cited are produced. It is not therefore possible to determine how the 490 – 500 cubic metre figure has been arrived at. No such figures have been provided in the response to the first party appeal and the opportunity was not taken to address the detailed submission made I the first party appeal on this matter. It is assumed, but not clear from the Water Services reports on file, that the concerns relate to the degree of permeable surfaces on the site, infiltration rates for these surfaces and details of SuDS measures. This information is however presented in the application documentation and used in the surface water assessment submitted by the first party. Secondly, the level of information submitted by the first party, both in the response to further information and the first party appeal is in my opinion comprehensive and address the issues raised by the Water Services Department regarding stormwater design, the site characteristics in terms of areas and infiltration rates and the infiltration rates assumed for the various parts of the proposed layout. It is not, therefore, clear to me what is the exact nature for the objection of the Water Services Section to the development on the basis of storm water attenuation. Given these factors, and the apparent ability of the site to accommodate larger on site attenuation, it is considered appropriate in this instance that permission would be granted subject to the detailed design of the storm water system being submitted for agreement with the Planning Authority. In making this recommendation, I also have regard to the fact that the development is proposed on lands that are zoned for residential purposes and which are not located within a flood zone or location that has a history of flood events.

7.6.5. With regard to **foul drainage**, the planning history of the site (Ref. SD17A/0040) indicates that there are outstanding issues, notably the capacity of the foul sewer on Killeel Road and the capacity of the Tay Lane pumping station. The capacity of the Tay Lane pumping station formed part of the request for further information issued by the Planning Authority. In response, and following a meeting between representatives of the first party and Irish Water, Irish Water state that there is no objection to the proposed development. The Surface and Foul Drainage Report submitted as part of the FI response confirms under Item No.3, Foul Water Capacity, that a meeting was held with Irish Water and that given the scale of development in Rathcoole within the catchment of this pumping station Irish Water recognise that an upgrade will be necessary, including to accommodate the subject proposal. It is also stated that no funding allocation for these upgrade works has been made and that any works would have to be funded by developer contributions on a pro rata basis. While the scale of works required is not clear, the response to further information does commit the first party to making a separate application for a connection agreement and to enter into agreements as required to facilitate the necessary upgrades. On this basis, while there is some uncertainty regarding the potential timeline for the required upgrades to the Tay Lane pumping station such that the development could be deemed to be premature by the Board, on balance the proposed development is considered to be acceptable.

7.7. **Other Issues,**

7.7.1. The first party appeal highlights the fact that reasons for Refusal Nos. 1 and 3 attached to the current Notification of Decision to refuse Permission related to issues that were not referenced at all in the previous application on the site (Ref. SD17A/0040) despite the basic layout being virtually identical to the current proposal. It is contended that this is contrary to the provisions of 7.14 of the development management guidelines for Planning Authorities which seeks to ensure that all reasons for a decision are set out to applicants. The comments of the first party on this issue are noted and where appropriate the planning history of the site has been taken into account in the assessment undertaken.

7.7.2. The form and scale of development is such that the proposed development comes within the scope of Part V of the Planning and Development and the application documentation indicates that the first party proposes to meet the requirements of Part V with the provision of units on site. In the event of a grant of permission the inclusion of a condition relating to Part V and agreement between the first party and the planning authority is therefore appropriate.

7.8. **Appropriate Assessment.**

7.8.1. It is noted that no appropriate assessment screening was submitted with the application to the planning authority.

7.8.2. The appeal site is not located within or close to any European site. The closest sites are the Glenasmole Valley SAC which is located c.7km to the south east of the appeal site at the closest point and the Wicklow Mountain SAC which is located c.8.5km to the south east. The nature of the proposed development is such that it is proposed to be connected to the public water supply and drainage systems. There is not therefore any potential emissions from the site or potential pathways to the closest European sites.

7.8.3. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. Having regard to the above, it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 27th day of November, 2018 and by the further plans and particulars received by An Bord Pleanála on the 29th day of January, 2019, 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.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. The following detailed requirements of Irish Water shall be complied with in the development:

(a) There shall be a minimum vertical distance of 500mm between surface water drain S4 to S5 and the existing 33" watermain as per Irish Water standards STD-WW-11.

(b) The proposed foul water drain crossing existing 33" watermain shall be encased in concrete as per standard detail STD-WW-08 of Irish Water Standards.

(c) there shall be a minimum vertical distance of 500mm between the proposed foul drain F4 to F5 and the existing 33" watermain as per Irish Water standards Standard Details STD-W-11.

Reason: In the interest of public health.

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

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. All rear gardens shall be bounded by a mixture of block walls, 1.8 metres in height, capped, and rendered, on both sides, and timber panel fences, 1.8 metres in

height, constructed with concrete uprights as per the Boundary Treatment detail Drg No.103 prepared by Mitchell and Associates and received by the Planning Authority on 27th November, 2018.

Reason: In the interest of residential and visual amenity.

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility [and to ensure the use of locally appropriate place names for new residential areas].

9. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. The existing boundary hedge along the eastern, southern and western site boundaries shall be retained and managed and a new boundary hedge created along the roadside boundary. Works to these boundaries shall be undertaken in accordance with the Landscape Design Rationale Report prepared by Mitchell and Associates and received by the Planning Authority on the 8th day of July, 2018 and recommendations contained in the Arborist report prepared by Arborist Associates Limited and received by the Planning Authority on 27th November, 2018.

Reason: To ensure the protection of a feature of major importance for local wild birds.

11. The landscaping scheme shown on drg No. 100 prepared by Mitchell and Associates, as submitted to the planning authority on the 27th day of November, 2018 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], 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 the interest of residential and visual amenity.

12. Prior to the commencement of development, details of the proposed play area, to include details of equipment and surfaces, shall be submitted for the written agreement of the Planning Authority.

Reason: In the interest of amenity.

13. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 in dispute (other than a matter to which section 96(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.

14. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. 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 local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local 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.

16. 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.

Stephen Kay
Planning Inspector

28th May, 2019