



An
Bord
Pleanála

Inspector's Report ABP-303980-19

Development	2 No. detached dwellings, the provision of 6 no. car parking spaces, connection to existing services, and associated works.
Location	Bridge House Paddock, Aughrim, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19/8
Applicant(s)	Patrick Byrne
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Patrick Byrne
Observer(s)	None.
Date of Site Inspection	29 th May, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the town of Aughrim, Co. Wicklow, where it occupies a position to the south of the town centre on the southern bank of the Aughrim River approximately 45m downstream (east) of Aughrim Bridge. This is an attractive and picturesque part of the town focused around a 'village green' / pocket park that is overlooked by 2 No. refurbished cottages to the immediate west of the site, the Lawless Hotel beyond same on the opposite side of the R753 Regional Road, and by more conventional two-storey housing to the south, although the wider surrounds include several notable examples of vernacular architecture such as 'Fogarty's Cottages' to the east of the site.
- 1.2. The site itself has a stated site area of 0.153 hectares, is irregularly shaped, and comprises an open area known locally as 'The Paddock' / 'Sheridan's Paddock', seemingly in reference to the two refurbished dwelling houses to the immediate west which formerly comprised 'Sheridans' public house. It is bounded by the Aughrim River to the north, an extended and refurbished cottage to the west, Fogarty's Cottages to the east, and by the public road to the southwest & southeast. The roadside site boundary is defined by a low stone wall whilst the principle south-western frontage onto St. Martin's Drive adjoins a public footpath separated from the main carriageway by a series of heavily planted flower beds set within masonry surrounds. A raised berm has also been constructed along the southern extent of the site as a flood barrier against the River Aughrim.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction 2 No. identical detached two-storey dwelling houses each with a stated floor area of 146m² and an overall ridge height of 6.787m. The overall design of the proposed dwelling houses is conventional and is based on a principle rectangular plan with a centrally positioned, single storey front porch. No details of external finishes have been provided on the submitted drawings.
- 2.2. A communal car parking area will be provided to the rear of the site behind the proposed housing with vehicular access to same obtained via an upgraded entrance

arrangement onto the adjacent public road. Water and sewerage services are stated to be available from the public mains.

- 2.3. On 22nd January, 2019, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development (Ref. No. SH 01-19).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 25th February, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 4 No. reasons:
- The site of the proposed development is located in the town of Aughrim where the existing wastewater treatment plant is already over capacity. It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of sewerage facilities and the period within which these constraints may reasonably be expected to cease. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.
 - Having regard to the location of the development within an existing floodplain which is identified as having a High probability of flooding as set out in section 3.6 of “The Planning System and Flood Risk Management, Guidelines for Local Authorities”, November 2009 and the fact that the displacement of flood water would not be mitigated by the proposed solution, it is considered that the proposed development is contrary to the “The Planning System and Flood Risk Management, Guidelines for Local Authorities”, would set an undesirable future precedent for similar types of development on floodplains, would be prejudicial to public health, and would be contrary to the proper planning and sustainable development of the area.
 - The proposed development would endanger public safety by reason of serious traffic hazard because the proposed entrance is inadequate to cater for the proposed development.

- The proposed development by reason of its layout including inadequate private open space and location in relation to the existing building line would be out of character with the existing pattern of development in the area, and would therefore be contrary to the proper planning and development of the area.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports:***

Details the site context, planning history, and the applicable policy considerations before analysing the proposal and recommending that permission be refused for the reasons stated.

3.2.2. ***Other Technical Reports:***

Area Engineer: Raises concerns as regards the adequacy of the sightlines available at the proposed entrance onto the public road given the potential obstruction caused by the existing flower beds and tree planting. It is also recommended that the applicant be required to submit details of road markings for the proposed development.

Environment: Refers to the site location within 'Flood Zone A' and notes that as the proposed dwelling houses would be classified as '*highly vulnerable*' development, a 'Justification Test' would be required. It is not accepted that the displacement of flood waters would be mitigated by the solution proposed in Section 4.2 of the Flood Risk Assessment whilst the proposal to maintain the existing ground level within the developed portion of the site is also considered unacceptable on the basis that the lands are prone to flooding in the existing instance. Further concerns are raised as regards the finished floor level and the potential for runoff from the development to enter adjacent properties.

3.3. **Prescribed Bodies**

- #### 3.3.1. *Irish Water:*
- Recommends that the proposed development be refused permission on the basis that the Aughrim wastewater treatment plant is currently at full capacity and would require upgrading in advance of any new connections being permitted.

3.4. Third Party Observations

3.4.1. A total of 2 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The noise levels during construction works.
- The lack of capacity within the Aughrim wastewater treatment plant.
- Increased traffic volumes and congestion.
- The site location within a floodplain and the potential for its to result in the displacement of floodwaters / increased flood risks downstream.
- The availability of other lands zoned for development in the village.
- The loss of an existing amenity area / green space.
- The alteration of the existing flower beds which have been maintained over the years by local residents.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 14/2057. Application by Eugene O'Brien for permission for 2 No. sets of semi-detached dwellings, the provision of 8 No. car parking spaces, provision of private open space, connection to existing services, associated works, and the demolition of an existing shed. This application was withdrawn.

PA Ref. No. 15/1309 / ABP Ref. No. PL27.246876. Was refused on appeal on 27th October, 2016 refusing Eugene O'Brien permission for the construction of two sets of semi-detached dwellings, provision of 8 No. car parking spaces, connection to existing services and associated works, and the demolition of an existing shed (The proposed development was revised by further public notices received by the planning authority on the 25th day of April, 2016) for the following reasons:

- The site of the proposed development is located in the town of Aughrim where the existing wastewater treatment plant is already over capacity. It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of sewerage facilities and the period

within which these constraints may reasonably be expected to cease. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.

- Having regard to the location of the site and its proximity to buildings listed on the National Inventory of Architectural Heritage, to the revised proposals which require the raising of the dwelling at a height of over one metre above the existing public road, the provision of railings on the inside of the roadside stone wall boundary, the elevated access path, and the lack of detail with respect to internal boundary finishes, it is considered that the development would be incongruous, would result in a negative visual impact at this location, would seriously injure the visual amenities of the area and would not be in accordance with the proper planning and sustainable development of the area.
- Given the lack of detail regarding levels by way of site sections and other details regarding fill, the Board is not satisfied regarding the limited information available and the potential negative implications for adjoining properties that the proposal has been sufficiently justified in a flood risk area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*’ acknowledge the importance of smaller towns and villages and their contribution towards Ireland’s identity and the distinctiveness and economy of its regions. It is accepted that many of these smaller towns and villages have experienced significant levels of development in recent years, particularly residential development, and that concerns have been expressed regarding the impact of such rapid development and expansion on the character of these towns and villages through poor urban design and particularly the impact of large housing estates with a standardised urban design approach. In order for small towns and villages to thrive

and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past

5.1.2. The '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' published by the Department of the Environment, Heritage and Local Government in November, 2009 introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. The core objectives of the Guidelines are to:

- Avoid inappropriate development in areas at risk of flooding;
- Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off;
- Ensure effective management of residual risks for development permitted in floodplains;
- Avoid unnecessary restriction of national, regional or local economic and social growth;
- Improve the understanding of flood risk among relevant stakeholders; and
- Ensure that the requirements of the EU and national law in relation to the natural environment and nature conservation are complied with at all stages of flood risk management.

In achieving the aims and objectives of the Guidelines the key principles to be adopted should be to:

- Avoid the risk, where possible,
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

The Guidelines outline the need to identify flood zones and to categorise these according to their probability of flood events. Notably, these should be determined ignoring the presence of flood protection structures as such areas still carry a residual risk of flooding from overtopping or breach of defences and as there is no guarantee that the defences will be maintained in perpetuity.

A staged approach to Flood Risk Assessment is advocated with only such appraisal and / or assessment as is needed to be carried out for the purposes of decision-making at the regional, development and local area plan levels, and also at the site specific level. Stage 1 entails the identification of flood risk by way of screening of the plan / project in order to determine whether there are any flooding or surface water management issues related to the area or the site that may warrant further investigation. This is followed by Stage 2 (Initial flood risk assessment) which seeks to confirm the sources of flooding that may affect a plan area or site, to appraise the adequacy of existing information and to scope the extent of the risk of flooding which may involve preparing indicative flood zone maps. Where hydraulic models exist, the potential impact of a development on flooding elsewhere and of the scope of possible mitigation measures can also be assessed. The third and final stage (Stage 3: Detailed flood risk assessment) aims to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development or land to be zoned, its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

Chapter 3 of the Guidelines states that the key principles of a risk-based sequential approach to managing flood risk in the planning system are to:

- Avoid development in areas at risk of flooding;
If this is not possible, consider substituting a land use that is less vulnerable to flooding.
Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.
- Inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted.
- Exceptions to the restriction of development due to potential flood risks are provided for through the use of a Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

It is a key instrument of the Guidelines to undertake a sequential approach in order to guide development away from areas at risk from flooding such as through the use

of flood zones and the vulnerability of different development types, however, it is recognised that several towns and cities whose continued growth and development is being encouraged (through the National Development Plan, Regional Planning Guidelines etc.) in order to bring about compact and sustainable urban development and more balanced regional development, contain areas which may be at risk of flooding. Where a planning authority is considering the future development of areas at a high or moderate probability of flooding that would include types of development that are inappropriate in terms of their vulnerability, the 'Justification test' set out in Box 5.1 of the Guidelines should be employed.

The vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used. The classification of different land uses and types of development as highly vulnerable, less vulnerable and water-compatible is influenced by various factors including the ability to manage the safety of people in flood events and the long-term implications for the recovery of the function and structure of buildings.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Section 3.2: County Wicklow Settlement Strategy:

Level 5 – Small Growth Towns: Aughrim

Chapter 4: Housing:

Section 4.3: Key Housing Principles

Section 4.4: Housing Objectives:

HD2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

- HD3:* All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.
- HD9:* In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.
- HD10:* In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Appendix 1: Development and Design Standards

Vol. 2: Development Plan: Aughrim Town Plan:

Land Use Zoning:

The proposed development site is located in an area zoned as '*RE: Existing Residential*' with the stated land use zoning objective '*To protect, provide and improve residential amenities of existing residential areas*'.

Other Relevant Policies / Sections:

Section 2.3: *Residential Development*

Section 2.7: *Service Infrastructure:*

Flooding:

Parts of Aughrim are at flood risk. Lands at a high and moderate risk of flooding are identified on the attached flood risk maps.

Water Services: Wastewater:

Aughrim is served by an aeration wastewater treatment plant located between the river and the R747 on the south east side of the town. The plant has a design capacity of 1,200pe and has a current loading of 9491. Improvements may be required during the course of this plan. No new development shall be permitted unless there is adequate capacity in the wastewater collection and treatment system. An Asset Need Brief was submitted to Irish Water in April 2014 for upgrades to increase capacity and to achieve compliance with EPA standards.

Section 2.8: Built and Natural Heritage

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781) approximately 10.8km southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 11.3km northwest of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 11.4km northwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the potential availability of public services, and the separation distance from the nearest sensitive location, 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

- Whilst the Planning Authority received a submission from Irish Water which recommended a refusal of permission, the applicant is in receipt of a 'Confirmation of feasibility' letter also issued by Irish Water which referred to the viability of the proposed development connecting to water and wastewater services. Rather than refusing permission, it is considered that the Planning Authority should have queried this anomaly with the service provider.
- The applicant is fully aware of the need to upgrade the Aughrim wastewater treatment plant and would not have applied for planning permission unless he had received confirmation from Irish Water. Accordingly, in light of the 'Confirmation of feasibility' letter received from Irish Water, the subject application was lodged with confidence and the applicant cannot understand why the case planner did not refer to this important document in their determination of the application.
- Significant costs have been incurred in the lodgement of the subject application as a direct result of the reliance placed on the 'Confirmation of feasibility' letter issued by Irish Water.
- The Site Specific Flood Risk Assessment submitted with the application adequately addresses the concerns raised by the Environment Section of the Local Authority as regards the flooding implications of the proposed development. Notwithstanding, the Board is advised as follows:
 - A 'Justification Test' complied in accordance with Section 5.15 of the *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'* is attached as follows:
 1. The lands are zoned for residential use in the Development Plan.
 2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:
 - i. The proposed compensatory storage measures will ensure that there is no increase in flood risk.

- ii. The proposal has been designed to minimise flood risk by setting the finished floor levels above the predicted 0.1% AEP event and by proposing the use of construction materials which provide for flood resilience.
 - iii. The development has sought to incorporate measures to manage the flood risk such as compensatory storage and to maintain existing flood routes.
 - iv. The proposal is compatible with good urban design and contributes to a vibrant and active streetscape.
- No serious consideration or evaluation of the proposed mitigation measures appears to have been undertaken by the Planning Authority.

The principle of compensatory storage is discussed in the Technical Appendices to the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' and is also described in the UK Construction Industry Research and Information Association (CIRA) Report C624: '*Development and Flood Risk – Guidance for the Construction Industry*'. Such compensatory works are most often used to facilitate an extension of the existing urban fabric and the proposed compensatory storage volume has been calculated on the basis of the displacement of floodwaters arising from the impact of the footprint of the new dwellings (between the predicted 0.1% AEP flood level and the existing ground level).

- In response to the Planning Authority's comments as regards the maintaining of existing ground levels within the developed portion of the site, it is unclear what point the Council is seeking to make as regards same. The submitted drawings illustrate that the existing flood routes will be maintained.
- The finished floor levels will be set above the predicted 0.1% AEP flood level for the nearest upstream node. Surface water runoff will be collected on site and discharged to the nearest surface water outfall. The proposed surface water system will also take cognisance of the objectives and guidance contained in the Greater Dublin Strategic

Drainage Study. Therefore, surface water runoff from the proposed development will not impact on adjacent properties.

- Given the relatively minor nature of the development proposed and its infill location within Aughrim, it is considered to be an appropriate scheme for the site.
- Contrary to the suggestion that the existing site entrance is only suitable for use by pedestrians, it is presently 2.75m wide and can be accessed by larger vehicles such as lorries, vans & tractors. The request to widen the entrance was made simply to accommodate the passing of two cars side-by-side.
- The existing flower beds between the footpath and the public road are the property of Wicklow County Council and it is with their remit to allow for a minor 'squaring off' of the rear of these two beds – the existing opening at the roadside is 4.6m wide and will not be affected by the proposed development as shown on the submitted drawings.
- The applicant had occasion in August, 2017 to request the removal or reduction of a dangerous tree within the existing flower beds beside Bridge House and the necessary works were carried out by the Council in October, 2017 to make the street safe.
- A reduction in the height of the boundary wall is easily achievable (if required) and other remedial landscape adjustments can be effected to further improve the available sightlines.
- The accompanying photographs show that the sightlines from the existing entrance do not constitute a traffic hazard. The front boundary wall is 1.2m high and with the smallest car roof height at 1.5m indicating that traffic can safely exit the gateway.
- Issues pertaining to the boundary wall and sightlines etc. can be addressed by way of condition in the event of a grant of permission.
- In reference to the overall design and layout of the proposed development:
 - The raised ground levels of the proposed houses serve to prevent any possible future flooding of same.

- The central porch feature can be redesigned in order to achieve better proportions.
 - With regard to the existing pattern of development, it is submitted that consideration must be given to the variation in design and architectural style etc. in the surrounding area. In this respect, particular care was taken to match the style and materials of the nearest property (Bridge House) whilst some flexibility in design is permissible by reference to the Development Plan.
 - The private open space provision (78m²) for each of the proposed four-bedroom dwelling houses exceeds the minimum (60-75m²) requirements of the Development Plan and should not be described as 'inadequate'.
 - The proposed development can provide for additional private open space up to 104m², if necessary.
- The omission of the 2 No. car parking spaces closest to the river will allow for the provision of a 10m wide riparian way. Indeed, the case planner has noted that only 4 No. parking spaces would be required to serve the development (as opposed to the 6 No. spaces proposed).

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Infrastructural / servicing issues
- Flooding implications
- Traffic implications
- Overall design and layout
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. With regard to the overall principle of the proposed development, it is of relevance to note that the subject site is located in an area zoned as '*RE: Existing Residential*' in the Wicklow County Development Plan, 2016-2022 with the stated land use zoning objective '*To protect, provide and improve residential amenities of existing residential areas*'. Accordingly, given the site location proximate to the town centre, and as the surrounding area is primarily residential in character, it is clear that the proposed development accords with the aforementioned land use zoning objective.

Furthermore, I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are potentially available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the

reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

- 7.2.2. Therefore, on the basis of the foregoing, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.3. **Infrastructural / Servicing Issues:**

- 7.3.1. The applicant has indicated on the submitted drawings and application form that it is proposed to connect to the public foul water sewer which extends through the easternmost part of the site. In support of this proposal he has sought to emphasise the contents of a 'confirmation of feasibility' letter issued to him by Irish Water on 10th September, 2018 which states that based upon the details provided with his pre-connection enquiry, and in light of the capacity currently available as assessed by the service provider, the connection of the proposed development to the Irish Water network could be facilitated. In this respect the applicant has also indicated that whilst he is aware of the need to upgrade the Aughrim wastewater treatment plant, he proceeded to lodge the subject application given the degree of confidence afforded by the aforementioned 'Confirmation of feasibility' letter.
- 7.3.2. However, in a submission received by the Planning Authority on 6th February, 2019, Irish Water expressly stated that the existing wastewater treatment plant serving the town of Aughrim was at capacity and would require upgrading in advance of any new connections being permitted. In this regard, I would refer the Board to Section 2.7 ('*Service Infrastructure: Water Services: Wastewater*') of the Aughrim Town Plan (Vol. 2 of the Wicklow County Development Plan, 2016-2022) wherein it is stated that improvements may be required to the existing treatment plant during the course of the plan and that no new development will be permitted unless there is adequate capacity in the wastewater collection and treatment system.
- 7.3.3. Whilst I would acknowledge that the applicant's receipt of the 'Confirmation of feasibility' letter would seem to directly conflict with the contents of the submission made by Irish Water on file, it is clear from a review of the planning history of the application site (i.e. PA Ref. No. 15/1309 / ABP Ref. No. PL27.246876), in addition to other recent development proposals in the area (including PA Ref. No. 17/240

whereby permission was refused for a dwelling house on lands further east due to deficiencies in the wastewater treatment plant), that the lack of capacity within the municipal wastewater treatment system has previously been identified as a limiting factor to development in the town. At this point I would draw the Board's attention to the inspector's report prepared in respect of ABP Ref. No. PL27.246876 wherein it was noted that the treatment plant at that stage was both hydraulically and organically overloaded resulting in a major proportion of the effluent wastewater discharging untreated each day to the river with the result that it was failing to comply with the emission limits set out in the relevant discharge licence. Therefore, on the basis that Irish Water has confirmed that the existing wastewater treatment plant does not have the capacity to cater for the proposed development, and in the absence of any indication of plans for the upgrading of same, I would concur with the decision of the Planning Authority to refuse permission in this instance.

- 7.3.4. In specific reference to the 'Confirmation of feasibility' letter received by the applicant, it should be noted that this correspondence does not constitute a connection offer and thus caution should be exercised in placing any reliance on same. In this regard I would suggest that such letters should perhaps be interpreted as being indicative that a connection to main services is simply 'feasible' rather than 'available'.

7.4. Flooding Implications:

- 7.4.1. From a review of the available information, it is apparent that consideration needs to be given to the potential flooding implications of the proposed development due to the proximity of the Aughrim River and the possible downstream impacts attributable to any loss of floodplain and the associated displacement of flood waters.
- 7.4.2. In this respect it is of relevance in the first instance to note that the National Flood Hazard Mapping compiled by the Office of Public Works records multiple instances of flooding in the immediate surrounds of the subject site, including in the vicinity of the bridge, with housing along Fogarty's Terrace / Meath Terrace having also been historically flooded. Regrettably, this mapping does not provide any further detail as regards the extent of flood events and it should be conceded that whilst the mapping serves as a useful tool in highlighting the potential for flood events in a particular area, it is not definitive.

- 7.4.3. Accordingly, I would refer the Board to the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme which has recently been made available on www.floodinfo.ie and serves to inform the development of Flood Risk Management Plans for specific areas in addition to the proposed measures to be implemented. In this respect it is clear from an examination of the available mapping that the entirety of the application site is located within the extent of a 1 in 100 year fluvial flood event (in a current scenario) i.e. Flood Zone 'A'.
- 7.4.4. The Strategic Flood Risk Assessment appended to the County Development Plan further confirms the site location within Flood Zone 'A' and in this regard it is of relevance to note that the Justification Test prepared as part of the SFRA in accordance with the requirements of Box 4.1 of the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' in relation to those lands zoned as 'Existing Residential' and situated within Flood Zone 'A' (i.e. the subject site) was failed. The SFRA states that there is sufficient undeveloped zoned land that is not at risk of flooding within the plan area to provide for the growth of the settlement notwithstanding that the 'Existing Residential' lands in question are currently developed for residential housing, although it is acknowledged that applications for minor development (e.g. extensions) are unlikely to raise significant flooding issues and that should expansion of existing uses be proposed, flood mitigation measures may be required.
- 7.4.5. Having established that the application site is located within Flood Zone 'A' as defined by the FRA Guidelines i.e. where the probability of flooding from rivers is considered to be High (greater than 1% or 1 in 100 for river flooding), I would refer the Board to Table 3.1 of the Guidelines which sets out the classification of various land uses / development types which are either highly vulnerable, less vulnerable or water-compatible and in this respect it is noteworthy that the proposed dwelling houses can be classified as '*Highly Vulnerable Development*'. Accordingly, in view of the site's location within the 1 in 100 year flood level (Flood Zone 'A') and the nature of the proposed development, it is necessary to apply the Justification Test as set out in Box 5.1 of the Guidelines.
- 7.4.6. The subject application has been accompanied by a Site Specific Flood Risk Assessment which accepts the site location within Flood Zone 'A', however, rather than applying the Justification Test pertinent to development management (i.e.

individual planning applications / development proposals) as set out in Box 5.1 of the ‘*Planning System and Flood Risk Management, Guidelines for Planning Authorities*’, this document has primarily sought to justify the proposal on the basis that the finished floor levels of the proposed dwelling houses will be located above the predicted flood level whilst the displacement of flood waters consequent on the proposal will be addressed through the provision of an equivalent volume of compensatory flood storage within the undeveloped portion of the wider site. This omission has been addressed somewhat in the grounds of appeal which include a ‘Justification Test’ for the proposed development, the contents of which are summarised in Section 6.1 of this report.

7.4.7. In my opinion, it is necessary to apply the Justification Test as set out in Box 5.1 of the Guidelines as follows:

(1) The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of the Guidelines:

The proposed development site is zoned as ‘*RE: Existing Residential*’ in the Development Plan with the stated land use zoning objective ‘*To protect, provide and improve residential amenities of existing residential areas*’. In this regard whilst I would accept that the proposed development is permissible within this land use zoning and would broadly accord with the wider development objectives of the Plan, I would reiterate my earlier comments that those lands zoned as ‘*Existing Residential*’ within Flood Zone ‘A’ of Aughrim Town have already failed the Justification Test undertaken as part of the Strategic Flood Risk Assessment appended to the County Development Plan.

(2) The proposal has been subject to an appropriate flood risk assessment that demonstrates:

i. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk:

With regard to the potential for the proposed development to increase the risk of flooding elsewhere, given the site location within the current extent of Flood Zone ‘A’, it is clear that the raising of ground levels in

part of the site to accommodate the construction of the proposed housing will result in the loss of flood storage area thereby giving rise to the displacement of flood waters elsewhere. In order to mitigate against the foregoing potential impacts, the applicant has proposed to provide a compensatory flood storage area within an undeveloped portion of the site through the excavation of same. Therefore, it has been submitted that the proposed development will provide adequate volume-by-volume compensation.

Whilst I note the applicant's proposals to mitigate the impact of the proposed development on flood events in the surrounding area, I would refer the Board to the core principles of the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' in that a risk-based sequential approach should be employed in respect of the management of flood risk. In this respect, development in areas at risk of flooding should be avoided, and in instances where this is not possible, consideration should be given to substituting a land use that is less vulnerable to flooding. Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.

Notwithstanding the foregoing, I am not satisfied that sufficiently detailed design proposals and associated calculations etc. have been provided to support the provision of the proposed compensatory storage measures.

- ii. *The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible:*

In this respect it has been emphasised that the finished floor levels of the proposed dwelling houses will be set above the predicted 0.1% AEP flood level with an estimated freeboard of 300mm. However, with regard to the possibility of access / egress routes being cut off in a flood event, the site-specific flood risk assessment simply states that '*occupants will be required to keep themselves informed of flood*

warnings in order to ensure that they are in a position to take appropriate action, either to vacate the premises in advance of the floodwaters reaching St. Martin's Drive, or be prepared to remain in-situ until the flood water subsides'. In my opinion, the lack of the most basic emergency planning for the proposed development and the implication that it will be the sole responsibility of future residents to ensure their own safety during flood events is regrettable.

Furthermore, the reference in the FRA to the development being 'designed to incorporate materials which provide for flood resilience' is vague and lacking in any specific details as regards flood proofing measures for the new construction and the maintenance of a means of access for emergency services.

- iii. *The development proposed includes measures to ensure that residual risks to the area and / or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access:*

The FRA states that the subject proposal includes for adequate mitigation measures to manage any residual risks by reference to items such as the provision of compensatory flood storage and the maintenance of existing flood routes whilst cognisance should also be taken of the finished floor levels. However, I would reiterate my earlier comments in relation to the lack of detail of the flood-proofing of the properties and my concerns as regards the lack of emergency planning. I would also query whether the proposed housing would obtain flood insurance.

- iv. *The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.*

The proposed development site is located on an infill site within a primarily residential area proximate to the town centre and, in my opinion, the overall layout of the subject proposal is broadly compatible with the achievement of the wider planning objectives for the area, although aspects of the design could be improved upon.

- 7.4.8. Having considered the foregoing, and following a review of the available information, it is my opinion that it has not been demonstrated that the submitted proposal satisfies the requirements of the Justification Test as set out in the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*'. I am not convinced that the proposed development adheres to the principles of the risk-based sequential approach advocated by the Guidelines in that development in flood-risk areas should in the first instance be avoided i.e. the subject site is located within the 1 in 100 year floodplain in an area which can be categorised as 'Flood Zone A' where the probability of flooding is highest. The proposal involves the raising of ground levels within the floodplain and therefore generates the potential for the displacement of flood waters to the detriment of surrounding lands. In my opinion, the provision in the Guidelines that development in Flood Zone A should only be permitted in 'exceptional circumstances' places an onus on any such development to be of critical or strategic importance or that it clearly accords with the proper planning and sustainable development of the area. Therefore, it is my opinion that the proposed development fails to accord with the provisions of the Guidelines and should be refused permission.

7.5. Traffic Implications:

- 7.5.1. Access to the communal parking area located to the rear of the proposed housing is to be obtained by way of the widening of an existing entrance arrangement onto the public road to the immediate southwest. This will not only necessitate the removal of part of the existing stone wall that defines the roadside site boundary but will also require the alteration / realignment of the westernmost planter / flower bed to the front of the site which presently serves to separate the public footpath from the main carriageway.
- 7.5.2. Given the site location within a 30kph speed limit along a minor roadway that terminates in a series of cul-de-sacs, in my opinion, the proposal to upgrade an

established access point to serve the proposed development is acceptable in principle. However, I would share the reservations expressed in the report of the Area Engineer as regards the availability of adequate sightlines onto the public road given the potential obstruction posed by planting within the existing flower beds (which would appear to be in the ownership of the Local Authority), although I would suggest that this is an issue which could be resolved between the relevant parties.

7.6. Overall Design and layout:

- 7.6.1. The proposed development site occupies a key location within an attractive and picturesque part of the town which is focused around a 'village green' and is characterised by a number of buildings of built heritage interest, several of which have been included in the National Inventory of Architectural Heritage e.g. Reg. No. 16320036: '*O'Sheridan*': A semi-detached, three-bay, one and a half-storey former house (built c.1890) of 'regional' importance to the immediate west of the site which retains much of its detailing and contributes to the 19th Century feel of the streetscape & Reg. No. 16320034: '*Jubilee Cottages*': A terrace of 6 No. almost identical three-bay, single-storey, estate workers houses, built c. 1890, of 'regional' importance which retains much of its character and enhances the 19th Century appearance of the town by adding variety to the streetscape. Therefore, a high standard of design is warranted at the subject location in order to reinforce the character of the established streetscape.
- 7.6.2. The subject proposal involves the construction of 2 No. two-storey, detached dwelling houses which have been orientated to face onto St. Martin's Drive in order to provide for a continuation of the streetscape. Whilst the building line of the proposed dwellings has been set back behind that of the adjacent properties to the immediate west, I would suggest that this recessing can be attributed to a desire to limit the visual impact arising from the need to provide for a finished floor level above the predicted flood level. By setting the new construction back from the public footpath, the difference in existing and proposed floor levels is perhaps less apparent when viewed from the public road given the degree of screening offered by the retention of the existing roadside boundary wall. Other considerations would include the need to provide for a series of front steps to each of the dwelling houses. Therefore, on balance, I am amenable to the general positioning and orientation of the proposed housing given that it aims to provide for a continuation of the

streetscape whilst the raised floor levels will not be as apparent due to the retention of the existing boundary wall and the flower beds to the front of same.

- 7.6.3. With regard to the actual design of the proposed dwellings, I would suggest that the overall approach to same is somewhat conventional and could be improved upon through the use of more vernacular detailing in keeping with the wider character of the surrounding area. For example, I would concur with the case planner that the front porch is disproportionate in terms of its size whilst other features such as the proposed use of quoins are inappropriate in this instance. Whilst the submitted design represents an improvement over that previously refused permission under PA Ref. No. 15/1309 / ABP Ref. No. PL27.246876, in my opinion, some further refinement would serve to make a more positive and sympathetic contribution to the streetscape.
- 7.6.4. In relation to the adequacy of the private open space, I am satisfied that the proposal to provide a rear garden area extending to 78m² for each of the four-bedroom dwelling houses is acceptable and that a requirement to provide a minimum of 104m² per unit would be excessive.
- 7.6.5. By way of further comment, I would suggest that the provision of a 10m wide riparian strip alongside the river in accordance with Flood Management Objective FL9 of the Development Plan could be imposed by way of condition in the event of a grant of permission, although this would certainly result in the loss of 2 No. parking spaces (and possibly 3 No. spaces).

7.7. Impact on Residential Amenity:

- 7.7.1. Having reviewed the available information, and in light of the site context, including its location within a built-up urban area, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to the separation of same from adjacent dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by way of overshadowing or loss of daylight / sunlight. However, it is perhaps not ideal that ground floor windows within the gable ends of both the proposed houses will face immediately onto the shared vehicular access / driveway.

7.8. Appropriate Assessment:

- 7.8.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located in the town of Aughrim where the existing wastewater treatment plant is already over capacity. It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of sewerage facilities and the period within which these constraints may reasonably be expected to cease. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed development in an area liable to flood events and to the provisions of the 'Planning System and Flood Risk Management, Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in November 2009, the Board is not satisfied, on the basis of submissions made in connection with the planning application and the appeal, that the subject site is an appropriate location for the scale and type of development proposed. It is considered that the proposed development would negatively impact on the flood regime of the surrounding area and the amenities of surrounding properties and would,

therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

28th June, 2019