



An
Bord
Pleanála

Inspector's Report ABP 304919-19

Development	23 dwellings and associated works within the curtilage of a Protected Structure.
Location	Beechpark, Rathcormack(Td), Rathcormac, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/6561
Applicants	D. O'Brien & J. Collins
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	1. T. Donovan & S. Murphy Donovan 2. M. Moran 3. M. O'Sullivan
Observer(s)	None
Date of Site Inspection	17/09/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 2.77 hectares, is to the south of and within the 50kph speed limit of Rathcormac village which is c.7km to the south of Fermoy and 22 km to the north-east of Cork city.

The site which is irregular in shape is accessed from an existing driveway from local road L1520 which also serves a two storey dwelling which is a protected structure. Site development works including access roads and footpaths previously constructed under planning permission 06/6570 are evident. It is largely overgrown with mature trees throughout.

Detached dwellings which front onto local road L1520 back onto the site to the south with different delineations in terms of shared boundaries including fencing and hedgerows. Large detached dwellings within Greenlands housing estate back onto the site along the west with the rear garden of No.11 Gracelands extending to the footpath within the site with a low timber fence and rear access delineating its boundary. Semi-detached and terraced dwellings within Ashfield Place housing estate back onto the site to the north-west with block walls delineating the boundary. Beech Park (The Old Rectory) which is a two storey detached dwelling bounds the site to the east and is a protected structure. The Shanowen River forms the northern boundary of the site. The local road serving the site is relatively narrow with a carriageway of between 5.5 and 5.8 metres in width. The existing access is c. 150 metres to the east of Guiney's Cross (junction of L1520 and R639).

2.0 Proposed Development

The application was lodged with the planning authority on the 01/10/18 with further plans and details submitted 21/02/19 and 06/06/19 following requests for further information and clarification of further information dated 22/11/18 and 15/04/19 respectively. Revised public notices were submitted 21/02/19.

The proposal entails the construction of 23 no. dwellings comprising:-

- 16 no. 3 and 4 bedroom semi-detached two storey units
- 7 no. 4 bedroom detached two storey units

The dwellings range in size from 113.6 sq.m. to 175.4 sq.m. with external finishes comprising a mix of smooth plaster with zinc cladding.

A footpath from the site entrance to Guiney's crossroads is to be provided.

The site retains the existing access point and internal road layout which was previously constructed under ref. 06/6570.

The application, as amended, is accompanied by:

- Letter from Irish Water confirming that connection to the Irish Water network can be facilitated subject to a connection agreement.
- Letter of no objection from Rathcormac Community Council to a path between the proposal and the playground on Dispensary Lane.
- Letter of consent from Cork County Council to the inclusion of part of the road within the site boundary.
- Part V Costs Methodology
- Planning and Design Statement
- Pre-Development Archaeological Testing Report
- Ecological Impact Assessment
- Flood Risk Assessment
- Visual Impact Assessment
- Outdoor Lighting Report
- Public Lighting Design Report (FI)
- Natura Impact Assessment (FI)
- Construction and Environmental Management Plan (FI)
- Himalayan Balsam Management Plan (FI)

Note: unsolicited further information dated 30/10/18 pertains to removal of site notice.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 29 conditions. Of note:

Condition 14: Final CEMP to be submitted prior to commencement of development. Shall include details of all ecological mitigation measures as set out in the NIS. It shall include programmes for environmental and ecological monitoring and supervision as appropriate.

Condition 15: Monitoring of construction works to be carried out by suitably qualified and experienced ecologist in accordance with a programme of supervision to be set out in CEMP.

Condition 26: Archaeological monitoring requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The *1st Assistant Planner's* report dated 22/11/18 considers that the site has the capacity to accommodate the current density without compromising the residential amenities of the area or adjoining properties. Further information on the issues raised in the reports summarised below recommended. The *2nd report* dated 15/04/19 following further information notes discussions with the Conservation Executive Architect who is of the opinion that the vernacular detailing and proportions are reasonable and advises that the house typology should be allowed to be suburban. Points raised in the Ecologist's *2nd report* require clarification. The *3rd report* dated 01/07/19 following further information recommends a grant of permission subject to conditions.

The *1st Senior Executive Planner's* report dated 22/11/18 notes that in having regard to the application for 96 dwellings under ref. 18/5679 and the 8 dwelling units granted under ref. 18/4274, cumulatively there is the potential for 124 dwelling units within the village within the lifetime of the LAP. The proposal can be given further consideration and would not conflict with either the County Development Plan or the

Fermoy Municipal District LAP. There is no objection to the scale of the proposal and would give rise to a level of new growth that is not disproportionate to the size of the established settlement. The density at 8.3 units per hectare is below the medium B density range of 12 to 25 units per hectare set out in the County Development Plan. Having regard to the siting within the curtilage of a protected structure and mindful that the site already has some of its estate roads, public open space and site entrance in place there are no objections to the density. There are no objections in principle to the layout. The proposal, providing for improved pedestrian facilities, is a positive development. It is critically important that tree removal is minimised. There are no objections to the housing mix. The residential amenities of existing and proposed occupants would not be adversely impacted. There is no objection to the quantum, location and quality of proposed open space. A request for further information in line with the issues raised in the reports summarised below recommended. The 2nd report dated 15/04/19 endorses the Assistant Planner's recommendation for clarification of further information.

The *Senior Planner's* report dated 02/07/19 notes the concerns raised by objectors but agrees with the Area Engineer that the current situation will be substantially improved with planning gain in terms of traffic calming, enhanced public lighting and improved pedestrian connectivity. The development of a high quality relatively low density development will help diversify the housing typology in this location and represents a sustainable form of residential development in the settlement. The Area Engineer's request for a special financial contribution for traffic calming and public lighting within and outside Rathcormac are at a remove from the site and do not have the benefit of any specific public infrastructure scheme. It is also noted that significant monies will be spent by the applicant in addition to the general contribution scheme. It is not reasonable or properly justified to apply a special contribution in this case. Due regard is had to the planning history and the partially completed works on the site. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Area Engineer in a report dated 21/11/18 has addressed his original concerns and has now included traffic calming, footpaths and public lighting. The proposals will benefit existing residents. It is intended to bring out the speed limit 550 metres in

2021 and to provide footpaths and public lighting. Further information required on width of road, existing entrances and available sightlines along the road to Guiney Cross and detailed drawing of proposed pedestrian crossing. The footpath width can be reduced to 1.3-1.5 metres at localised areas where the available widths are restricted. The 2nd report dated 12/04/19 following further information considers the issues raised have been addressed. No point of the realigned road to be less than its current width. The exact location of any ramps will be determined by the positioning of the public lighting columns and existing entrances and will be agreed. The developer will be asked to contribute to additional traffic calming outside the confines of the red line boundary on the R639. There are clearly some anomalies in the drawings but the developer has attempted to indicate that the improvements to the public realm are to the benefit of the new house owners and existing residents. The developer will be requested to contribute towards the lighting of the nearby amenity loop walk. No objection subject to conditions. The 3rd Area Engineer's report (undated) following clarification of further information considers that the wayleave drawing and proposed access for maintenance of the underground attenuation tank is acceptable subject to a condition.

Conservation Officer in a report dated 21/11/18 is not satisfied that the quality of the design response is sufficient taking into account the increase in residential units, the rigidity of the site layout, design of the houses and the limited landscaping. It is very suburban in nature and does not take into account its location within the curtilage of a protected structure. The approach should be revised.

Public Lighting in a report dated 21/10/18 recommends further information. 2nd and 3rd reports dated 01/03/19 and 20/06/19 following further information and clarification of same have no objection subject to conditions.

Housing Officer in a report dated 24/10/18 considers the site suitable for social housing. Unit type C is suited for social use.

Estates in a report dated 13/11/18 has no objection subject to conditions.

Archaeologist in a report dated 17/11/18 has no objection subject to conditions.

Ecologist in a report dated 20/11/18 considers that the water protection measures to be essential to provide for protection to the SAC. This conclusion is reached taking account of the location of the site in proximity to the Shanowen River, the scale of

the proposal and the hydrological connectivity to the SAC. The proposal should be subject to appropriate assessment. A Natura Impact Assessment, a detailed Construction and Environmental Management Plan, measures to protect trees on site and a proposed planting schedule required. The 2nd report dated 15/04/19 following further information recommends clarification on capacity of existing attenuation system on the site. The existing WWTP is operating under capacity and the additional nutrient loading should improve plant performance. There are also proposals by Irish Water to carry out alterations within the WWTP to aid the treatment process. It is expected that these works will be completed in 2019. On this basis it would be acceptable to conclude that treated effluent will not negatively impact water quality and would not pose a risk of giving rise to significant negative effects on the SAC. A revised landscape plan which makes provision for retention, protection and integration of trees and hedgerows on the western and southern boundaries recommended. Clarification of further information recommended. The 3rd report dated 26/06/19 recommends that all mature broadleaved trees on the boundaries be retained and integrated into the landscaping scheme. No objection subject to conditions.

3.3. Prescribed Bodies

Inland Fisheries Ireland in a report dated 05/11/18 is not opposed in principle. The design and completion of any required riparian landscaping or new crossing structures should be cognisant of the need to preserve both the ecological quality and connectivity of the riparian corridor in order to safeguard the existing fisheries resource. Designs in line with achieving same should be provided. A Construction Environmental Management Plan also required.

Irish Water in a letter dated 20/11/18 has no objection subject to conditions.

3.4. Third Party Observations

Objections received by the planning authority are on file for the Board's information. Issues raised relate to:

- Feasibility of provision of footpath along local road
- Flooding and drainage along local road

- Pedestrian and vehicular safety
- Increase in traffic along the local road
- Quantum of development relative to LAP requirements
- Adequacy of waste water infrastructure
- Excessive density
- Impact on residential amenities
- Inconsistencies in documentation
- Legal issues and breach of contract

4.0 Planning History

A summary of the planning history on the site is set out in the Planning and Design Statement accompanying the application. In total 9 applications pertain. Of note:

06/6570 – permission granted for 13 residential serviced sites and associated works including the provision of a pedestrian footpath, storm water attenuation tank and sewage pump chamber.

08/6890 – permission granted for three dwellings in the north-western corner of the site.

17/4787 – permission refused for 23 dwellings for one reason relating to absence of a footpath along local road L1520 to the south giving rise to serious pedestrian and vehicular conflict. The planning authority also considered the absence of a pedestrian link to the village core via 3rd party lands to the north-west would result in poor connectivity conflicting with the Section 28 Ministerial Guidelines on Sustainable Development in Urban Areas.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Cork County Development Plan, 2014

Rathcormac is designated as a key village.

Objective CS 3-2 - establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available, supporting the retention and improvement of key social and community facilities and inter urban public transport.

Objective HOU 4-1: Housing Density on Zoned Land

Medium 'B' - 12-25 units per hectare

- Max Net Density extended to 35 dwellings/ha in smaller towns outside Metropolitan Cork.
- Normally applicable in smaller towns (less the 5,000 population).
- Can be applied in larger towns through LAP's where there is a requirement to broaden the range of house types.
- Densities less than 12 dwellings/ha will be considered where an exceptional market requirement has been identified.
- Densities between 25 and 35 dwellings/ha will be considered where an exceptional market requirement has been identified.
- Consider a lower standard of public open space provision where larger private gardens are provided.
- Must connect to public water and wastewater services.
- Broad housing mix normally required including detached/ serviced sites unless otherwise specified in relevant Local Area Plan.

5.1.2. Fermoy Municipal District LAP 2017

Rathcormac is designated as a key village

The site is within the 'existing built up area'.

Within the development boundary of Rathcormac it is an objective to encourage the development of up to 120 houses in the plan period.

The northern part of the site is located within an Area Susceptible to Flooding: Zone A and B.

5.2. Natural Heritage Designations

The site is c. 600 metres to the west of Blackwater River (Cork/Waterford) SAC (site code 002170).

5.3. Environmental Impact Assessment

Having regard to the nature and extent of the proposed development within Rathcormac village there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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

3rd Party appeals have been received from

1. Tim Donovan & Sinead Murphy Donovan
2. Mona Molan
3. Mary O'Sullivan

All are accompanied by supporting documentation

The grounds of appeal can be summarised as follows:

- There are multiple inaccuracies and inconsistencies in the plans and drawings accompanying the application. The anomalies misrepresent the benefit to existing residents.
- The current average width of the road is between 5.5 and 5.7 metres with dwellings on either side. It is not possible to see how a 7.8 metre width can be accommodated without impacting residences' boundaries. Verges that exist are small and not large enough to provide additional width to allow for a footpath.
- There is a risk to site boundaries from the construction of the footpath. Property will be damaged if boundaries are taken.

- The footpath will diminish sightlines at existing entrances and the speed ramps will result in an uneven surface for vehicles exiting onto the local road. The position of the ramps is not known.
- The proposed realignment increases a dangerous kink that does not exist at present.
- A road survey has not been completed to fully understand traffic volumes or traffic type. It is well trafficked. Current width does not allow for 2 HGVs/farm machinery to pass without 1 coming to a near stop. The proposal to include a footpath will further restrict the safe passing of vehicles.
- No protection is being offered to residents outside of the proposed site to maintain the visual amenity of the road.
- Speed ramps will result in additional noise and vibration.
- Increased footfall will result in increased noise pollution, anti-social behaviour and littering.
- The proposed pedestrian crossing in proximity to Guiney's Cross will give rise to traffic and pedestrian hazard.
- Traffic calming should also be provided on the R639 on approach to Guiney's Cross and on local road L1520 from Castlelyons direction.
- No details are given on the nature and timing of the works along the local road.
- A Service Level Agreement is required to ensure that the proposed street lighting is operated and maintained appropriately.
- There are ongoing issues with drainage along the local road. There is no guarantee that the additional drainage measures will be an improvement. Drainage and flood issues need to be addressed and clarified. Drawings do not show existing pipes.
- Relocation of the proposed entrance to the development to the north-west could be considered.

6.2. Applicant Response

The submission by McCutcheon Halley on behalf of the applicant, which is accompanied by supporting plans, can be summarised as follows:

- The documents and drawings were prepared to a high standard, are in compliance with the relevant requirements and were to the satisfaction of the planning authority.
- The layout drawings were based on a topographical survey carried out. The initial survey did not pick up all entrances along L1520. This was rectified at further information stage. Sightlines at all entrances were also shown at further information stage.
- The survey undertaken indicated that the existing carriageway is c.6 metres wide. At present a grass/gravel verge is present on either side of the carriageway. The grass verge is within the ownership of the County Council. The carriageway and verge equate to 11.52 metres at the widest point and 5.58 at the narrowest. The applicant is committed to ensuring that the realigned road remains at its current width. There is adequate room within the margins to accommodate the realignment of the road.
- The proposed footpath, lighting and speed ramps will have a positive impact on the area and be of benefit to existing and new residents.
- The footpath is situated on the northern side of the road and traverses 3 entrances only. A dropped kerb will be provided to allow ease of access. There will be no impact on sightlines.
- No boundary wall or ditch is being removed or impacted by the proposal.
- Drainage details are given on the relevant plans.
- The inclusion of speed ramps and public lighting will not negatively impact the amenities of residents. The inclusion of speed ramps are labelled on the drawing submitted by way of further information.

Note: The appeals were circulated to each of the 3rd parties for comment. No responses received

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Section 131 Notices**

Due to the location of the site within the curtilage of a protected structure and the hydrological link to the Blackwater River SAC certain prescribed bodies were invited to make a submission/observation on the appeal.

No responses received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development and Suitability of Density
- Access and Traffic
- Other Issues
- Appropriate Assessment

7.1. **Principle of Development and Suitability of Density**

Permission was originally granted for 13 serviced sites under planning ref. 06/6570 with a further 3 dwellings granted permission under ref. 08/6890 bringing the total permitted on the site to 16. Site development works have been undertaken including the shared access arrangement with Beech Park house to the east, internal roadways, footpaths and a central open space area.

The current proposal constitutes the 2nd application for 23 dwellings on the site. Permission was previously refused under ref. 17/4787 for one reason relating to absence of a footpath along local road L1520 to the south giving rise to serious pedestrian and vehicular conflict. The planning authority also considered that the

absence of a pedestrian link to the village core via 3rd party lands to the north-west would result in poor connectivity conflicting with the Section 28 Ministerial Guidelines on Sustainable Development in Urban Areas.

The site is within the development boundary of Rathcormac which is a designated key village in the Fermoy Municipal District LAP and is within the Greater Cork Ring Strategic Planning Area as per the current County Development Plan. It is located c. 22km to the north of and very much influenced by Cork City. The LAP does not set out zoning provisions per se but requires that development within the boundary complement and be consistent with existing development in the vicinity. In this context the development of the site, which is in close proximity to the village centre remains suitable for such type development.

As per the County Development Plan such key villages are to be the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services, by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available and supporting the retention and improvement of key social and community facilities and inter urban public transport.

As per objective GO-01 and section 4.12.5 of the LAP the scale of growth envisaged for the village is up to 120 units within the lifetime of the plan with the number of houses in any particular group not normally exceeding 20 units. Section 4.12.6 of the plan notes that the growth of the village up to 2011 had been exceptional relative to the growth rates experienced by the towns in the area and advocates a more moderate rate of growth in the village in the future.

The proposed development comprises of 23 dwelling units on a site with a stated area of 2.77 hectares. This equates to 8.3 units per hectare. This is materially below the Medium B density category of between 12 - 25 units per hectare as set out in objective HOU 1-4 of the Cork County Development Plan which, itself, is at variance with the 20-35 unit per hectare parameters for edge of small town/village centre sites as set out in the Guidelines for Sustainable Residential Development in Urban Areas. Indeed, it is also lower than the 15-20 unit per hectare minimum recommendation for edge of small town/village locations set out therein (save in

appropriate controlled circumstances where densities below this could be considered).

From the details on file permission was granted in May 2019 for 94 dwellings on a site to the south-west of the village centre under ref. 18/6579 (originally permission sought 96 units but 2 no. units were omitted by way of condition). In addition, 8 dwelling units were granted under ref. 18/4274 on a site to the south of the village centre which have been constructed. Coupled with the current proposal the number of units proposed would equate to 126.

As can be extrapolated from the planning reports on file the 120 residential unit upper limit appears to take precedence over the application of the minimum density requirements of both the County Development Plan and the Guidelines. It is also considered that 23 dwellings presents a better and more sustainable use of the land than the alternative of no dwellings and the site remaining undeveloped.

Whilst the basis for this 120 unit ceiling to provide for a more moderate level of growth commensurate with the village's position in the settlement hierarchy and the provisions of the Cork County core strategy are noted, I consider that the lands should be developed to an appropriate density to ensure for efficient and sustainable use of such scarce serviced land as advocated by the relevant guidelines. On this basis I consider that the proposed density to be misplaced even making allowances for the constraints imposed on the site in terms of the existing site development works carried out and proximity to the protected structure. Whilst cognisance is had of some these issues do not, of themselves, justify such a low density solution.

The proposal, would, therefore be contrary to the current Ministerial Guidelines and the provisions of the County Development Plan. I recommend that permission be refused for this reason.

The Board may consider this matter to constitute a new issue and may wish to seek the view of the parties to the appeal.

7.2. Access and Traffic

This constitutes the appellants' substantive concern, specifically the ability to provide for a footpath along local road L1520.

The site is served by the shared entrance onto L1520 which was constructed on foot of the earlier permission. The site is just within the village's speed limit of 50kph and is approx. 150 metres from Guiney's cross to the west. The road between the site and the crossroads is relatively narrow, between 5.5 - 6.0 metres wide, with no footpath. The narrowest section is that closest to the crossroads. There are narrow grass/gravel verges along the carriageway. One off housing on both sides have individual accesses onto the road. The details as given on the drawings submitted by way of further information are representative of the situation on the ground in terms of the said dwellings and the access arrangements serving same.

It is proposed to provide for a footpath along the northern section of the road availing of the additional space provided by the said grass/gravel verges. The works do not require incursion onto private property with a commitment that the carriageway would not be less than is currently the situation. I submit that the width of the footpath will have to be reduced at the pinch points, notably that closest to the crossroads. It will traverse 3 entrances with a dropped kerb to be provided to allow for access. By way of further information the applicant has provided a study of both existing and proposed sightlines at all of the existing accesses along the section of road which concludes that there would be no discernible impact on same. Whilst the location of the proposed speed ramps is delineated on the drawings, as per the Area Engineer's report the exact location of any ramps will be determined by the positioning of the public lighting columns and existing entrances and will be agreed. This could be required by condition should the Board be disposed to a favourable condition.

I would concur that the proposed footpath, lighting and speed ramps will have a positive impact on the area, will be of benefit to existing and new residents and will assist in slowing vehicular speeds both entering and exiting the village.

The developer will also be responsible for the provision of a pedestrian crossing at Guiney's Cross. Whilst concern is expressed as to pedestrian safety in terms of vehicular movements both along the local road and the R639, the location of the crossing within the 50kph speed limit, coupled with the speed ramps to be installed would address concerns in terms of vehicular speed. The provision of further traffic calming measures at a remove from the site would be within the remit of the local authority.

As noted previously the proposed works do not entail incursion onto private property. The applicant will be required to ensure that the works do not undermine the integrity of boundary walls along same. The applicant should be informed of the provision of Section 34(13) of the Planning and Development Act 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

7.3. **Other Issues**

Protected Structure

The site is within the curtilage of Beech Park (The Old Rectory) which is a protected structure (ref. 00331). The house is situated to the east of the proposal and is separated by a large band of mature trees which run along the eastern boundary. Views of the site are largely obscured by these trees. I would concur that the impact on the protected structure will be minimal as per the conclusions of the Visual Impact Assessment report that accompanies the application. Existing screening is to be supplemented by further planting.

Layout and Design

I would refer the Board to my assessment in terms of density in section 7.1 above. The relative homogeneity of the house type and size and absence of appropriate mix is also of concern.

The layout is dictated by the existing site development works carried out to date. Dwellings are proposed along the boundaries of the site working with the existing internal road layout which loops around the central area of open space onto which the units would be orientated.

Two open spaces are proposed, one centrally located and the second along the northern boundary bordering the Shanowen River. They are to incorporate 1 local plan area and 1 neighbourhood play area. A footpath is to link the two spaces and is to connect to the pedestrian footpath proposed through lands within the ownership of Rathcormac Community Council to the north west and which would constitute a positive intervention providing for appropriate connectivity to the village centre.

Flooding

A Flood Risk Assessment accompanies the application. The PFRA flood extent map, the Fermoy Municipal District LAP and South Western CFRAM maps indicate that the northern portion of the site adjoining the Shanowen Stream lies within Flood Zone A. The proposed development will not result in the loss of flood plain storage. Development is to be constructed with a finished floor level above the 1% fluvial flood event. The FFL is to incorporate a freeboard of 0.5 metre with a further 0.25 metre allowance for the effects of climate change. Therefore, the proposed FFL of the development is +49.50mOD. It is proposed to implement SuDs in order to limit the discharge from the site to greenfield discharge rates. This implementation will not increase the risk of flooding elsewhere.

Drainage

As per the Drainage Plan provided with the application an additional gully is to be provided to pick up roadside water. Full details of the proposed roadside drainage to ensure that 3rd party properties are not adversely affected could be required by condition for agreement with the planning authority should the Board be disposed to a favourable decision.

Street Lighting

The maintenance of street lighting following its installation will be the responsibility of the local authority.

7.4. Appropriate Assessment

An Ecological Impact Assessment Report which contains AA screening accompanies the application with a Natura Impact Statement submitted by way of further information.

Stage 1 – Screening

Project Characteristics

The site is as described in section 1 above. In summary the proposal entails the construction of 23 dwellings on a serviced site and provision of a footpath along the local road.

Designated Sites

Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Blackwater River SAC (site code 2170)

The Shanowen Stream which bounds the site to the north forms part of the European site c. 600 metre to the south-east.

The qualifying interests are:

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Perennial vegetation of stony banks
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*
- Freshwater Pearl Mussel
- White-clawed Crayfish
- Sea Lamprey
- Brook Lamprey
- River Lamprey

- Twaite Shad
- Salmon
- Otter
- Killarney Fern

Detailed conservation objectives have been prepared for the site, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

The Shanowen Stream that forms the northern boundary of the site forms part of the SAC c. 600 metres to the south-east. The stream flows into the Bride River which also forms part of the SAC. The Rathcormac waste water treatment plant to which the development is to connect into discharges into the Bride River south of the village. Therefore, there is a direct hydrological link to the SAC. Surface water is to discharge into the Shanowen Stream upstream of the point where it forms part of the SAC. Waste water will ultimately discharge to the Bride River. Indirect effects arising from impacts on water quality during construction and operation phases could arise. Thus, the potential for significant effects on the European Site cannot be excluded at this stage.

Blackwater Callows SPA (site code 4094)

The appeal site is c.7.7 km to the south of the nearest point of the designated site

The qualifying interests are:

- Whooper Swan
- Wigeon
- Teal
- Black-tailed Godwit
- Wetland and Waterbirds

To date generic conservation objectives apply for the site, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

There is no physical or hydrological connection to the SPA. Given the separation distance and location of the appeal site within the development boundary of

Rathcormac and consequent level of human presence, effects on the European Site resulting from the proposed development can be excluded.

Potential in-combination effects

Due consideration is given to the Rathcormac waste water treatment plant that discharges into the Bride River to the south of the village. Having regard to the size, scale and nature of the project it is considered that there are no current or outstanding grants of planning permission which could interact with the project to create significant cumulative impacts.

Stage 1 – Screening Conclusion

Based on my examination of the AA Screening Report, NIS report, supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, potential for significant indirect effects on the features of interest of the Blackwater River SAC (site code 2170) as detailed above cannot be screened out. Accordingly, a Stage 2 Appropriate Assessment is required to determine the potential of the proposed development to adversely affect the integrity of the said designated site.

It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Blackwater Callows SPA.

Appropriate Assessment

The Appropriate Assessment concerns the said Blackwater River SAC (site code 2170). The qualifying interests are as detailed above.

Description of the Designated Site

The River Blackwater is one of the largest rivers in Ireland, draining a major part of Co. Cork and five ranges of mountains. In times of heavy rainfall, the levels can fluctuate widely by more than 12 feet on the gauge at Careysville. The peaty nature of the terrain in the upper reaches and of some of the tributaries gives the water a pronounced dark colour. The site consists of the freshwater stretches of the River

Blackwater as far upstream as Ballydesmond, the tidal stretches as far as Youghal Harbour and many tributaries, the larger of which include the Licky, Bride, Flesk, Chimneyfield, Finisk, Araglin, Awbeg (Buttevant), Clyda, Glen, Allow, Dalua, Brogeen, Rathcool, Finnow, Owentaraglin and Awnaskirtaun. The portions of the Blackwater and its tributaries that fall within this SAC flow through the counties of Kerry, Cork, Limerick, Tipperary and Waterford.

Conservation Objectives

Detailed conservation objectives have been prepared for the site, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

Potential Indirect Effects

The potential effects relate to impacts on water quality arising from the construction and operational phases of the development and the possible impacts on water dependent habitat and species. Increased rates of surface water runoff could also have potential to influence changes in natural hydrological conditions in the river. There is potential for indirect effects to Otter during the construction phase from disturbance during construction and decrease of habitat quality. There is also potential for disturbance to fisheries. Invasive species Himalayan Balsam is noted to be growing off site in association with the River Shanowen. Whilst it is not growing on the site it is possible that off site specimens may spread into the site during construction works. This may give rise to the potential for indirect habitat loss/deterioration.

I submit that the potential for significant indirect effects on a number of qualifying interested can be excluded on the grounds that the designated habitats are not within the development area and are outside the zone of potential impact influence and that suitable habitats for the identified species do not occur within the development area of the zone of the potential impact influence. I have had regard to the detailed conservation objectives drawn up for each and the mapped features where relevant. On this basis, the following are screened out for further assessment.

- SAC habitats and species including those associated with the freshwater environment which require the maintenance of a high water quality standard and stable hydrological regime.

- Coastal habitats - risk to these can be screened out given the distance of the development from the estuary (over 43 km) and taking account of the scale of the project.
- Woodland habitats and species – risk can be ruled based on the lack of any physical connectivity between the proposal and know locations of occurrence.
- Twaited Shad, Freshwater Pearl Mussel and Freshwater Crayfish – can be ruled out as do not occur in the Bride River.

The following qualifying interests are known to occur in the Bride River downstream of the development:

	Conservation Objective	Note
Sea Lamprey	Restore favourable condition	Recorded as occurring throughout the Bride River
Brook Lamprey	Maintain favourable condition	Recorded as occurring throughout the Bride River
River Lamprey	Maintain favourable condition	Recorded as occurring throughout the Bride River
Salmon	Maintain favourable condition	Freshwater stretches of Bride River designated as Salmonid River
Otter	Restore favourable condition	Known to occur throughout the SAC
Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation	Maintain favourable condition	The distribution of the habitat within the SAC is not known. There is the possibility that the habitat occurs proximal to the site

Mitigation measures during the construction and operational phases are to entail:

Construction Phase:

- Removal of excess material off site and appropriate on site storage of topsoil until reuse.
- Material to be stored away from the stream and silt fencing to be installed.
- Sediment traps and/or silt fences to be provided to prevent run off from the site.
- Emergency operating plan to be established to deal with incidents or accidents.
- Good housekeeping measure and staff awareness of importance of the freshwater environment.
- Storage of oils, hydraulic fluids etc. to be in a bunded facility.
- Pouring of concrete, sealing of joints, application of water proofing paint to be completed in the dry.
- Site monitoring for any Himalayan Balsam specimens. Any specimens identified to be appropriately managed and removed as part of a management plan.

Operational Phase

- All storm water discharge to be directed through the existing storm water drainage network equipped with hydrocarbon interceptor and grit sumps.
- Storm drainage calculations to ensure that proposed storm drainage system is appropriately sized to serve both existing and new developments.
- Storm network to be inspected following construction to ensure that no cross connection between the proposed foul and storm network exists.
- Storm drainage system to be cleaned and inspected prior to being fully commissioned.

- Water sampling of the receiving water upstream and downstream of the proposed outfall will be undertaken prior to construction and for a period of 6 months following completion of development
- Bunding of domestic heating oil tanks to prevent possible spillage runoff.

Assessment

The site is not with the European Site.

A number of the qualifying interests are reliant on water quality. The minimum water quality standards required to be met to protect the species is Q4-Good Status. It is also required to maintain a stable hydrological regime, to protect the natural extent and quality of riverbed habitats with low levels of sediment and algal and macrophyte growth and to maintain open channels and free passage of fish to ensure compatibility with Conservation Objectives.

River Bride is assigned Q4-Good Quality water status upstream of Rathcormac. The lower part of the river, east of Castlelyons, is assigned moderate water quality status. This is not sufficient to ensure compatibility with the conservation objectives.

During the construction phase excavation in proximity to the stream has the potential to release silt and sediment and accidental spillage. The Board is advised that a Construction and Environmental Management Plan was submitted by way of further information. I consider that the mitigation measures as detailed above including the use of silt fences reflect best practice construction methods.

In terms of the operational phase surface water is to be attenuated to greenfield rates prior to discharge to the stream. There is an attenuation tank already in place with evidence provided that it has sufficient capacity to allow for attenuation for a 1:100 year storm event plus allowing for climate change. The system is to be fitted with a non-return valve and a hydrocarbon interceptor and grit sumps prior to discharge to the stream.

Waste water is to be discharged to the Rathcormac waste water treatment plant which discharges into the Bride River within the SAC to the south of the village. It has capacity to accept the loading. It is currently not meeting its licence condition as a result of under loading of the plant. The additional loading would serve to improve its operation.

A management plan for treatment and removal of invasive species should they be identified on the site is proposed.

In terms of Otter no holts were recorded within the site. Otter potentially present in the area will avoid the area temporarily during the construction period. Best practice methods in both construction and operational phases in terms of protection of water quality as detailed above would ensure against the reduction of prey available through water quality impacts.

Potential in-combination effects.

Due consideration is given to the Rathcormac waste water treatment plant that discharges to the Bride River south of the village. Having regard to the size, scale and nature of the proposed development it is considered that there are no current or outstanding grants of planning permission which could interact with the project to create significant cumulative effects.

AA – Conclusion

I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Site No.2170 or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the location of the site within the development boundary of the key village of Rathcormac, the provisions of the County Development Plan relating to density as set out in objective HOU 4-1 and to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under section 28 of the Planning and Development Act 2000, as amended, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in land usage given the location of the site within the settlement of Rathcormac in close proximity to established social and community services and would not conform to the minimum densities as recommended in the Guidelines. The proposed development would, therefore, be contrary to these Ministerial Guidelines and the provisions of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

October, 2019