



An  
Bord  
Pleanála

## Inspector's Report ABP 305202-19.

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<b>Development</b>	Construction of 25 houses and associated site works.
<b>Location</b>	Poundbrook Lane, Rathdrum, Co. Wicklow.
<b>Planning Authority</b>	Wicklow Co. Council.
<b>Planning Authority Reg. Ref.</b>	181414
<b>Applicant</b>	Leslie Armstrong
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Leslie Armstrong
<b>Observer</b>	Jennifer Foley
<b>Date of Site Inspection</b>	18/11/19
<b>Inspector</b>	Siobhan Carroll

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	8
3.4. Third Party Observations .....	8
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Rathdrum Local Area Plan 2017 – 2023 .....	8
5.2. Wicklow County Development Plan 2016 – 2022.....	9
5.3. Project Ireland 2040 - National Planning Framework.....	11
5.4. Section 28 Ministerial Guidelines .....	11
5.5. Natural Heritage Designations .....	11
5.6. Environmental Impact Assessment .....	11
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Planning Authority Response.....	15
6.3. Observations.....	16
7.0 Assessment.....	17
8.0 Recommendation.....	27
9.0 Reasons and Considerations.....	28

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.07 hectares is located at Poundbrook Lane, Rathdrum, Co. Wicklow. Poundbrook Lane runs from the Main Street south-west to Brewery Bend. The northern section of the lane provides vehicular access to a number of dwellings. The southern section of the lane narrows and provides pedestrian access to Brewery Bend. This includes a flight of steps.
- 1.2. The site comprises lands to the eastern and western side of Poundbrook Lane. The site contains a two-storey derelict dwelling and an adjacent derelict shed. The derelict dwelling adjoins a two-storey early 19<sup>th</sup> Century House which is a Protected Structure and is within the designated Architectural Conservation Area on Rathdrum Main Street.
- 1.3. The topography of the site falls towards Poundbrook stream. The south-eastern corner of the site lies at the 130m contour and the north-east corner lies at circa 140m contour. The section of the site to the western side of Poundbrook Lane adjoins 'the Brewery' a terrace of two-storey dwellings.
- 1.4. The southern site boundary adjoins the public road at Brewery Bend. The boundary is defined by mature trees and hedgerow. Brewery Bend is a scheme of two-storey terrace dwellings. The eastern boundary adjoins a number of residential properties with frontage onto the R755.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of 25 no. houses and associated site works. Works will include demolition of an existing derelict dwelling and an adjacent derelict shed.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for the following four reasons.

1. The proposed development would endanger public safety by reason of serious traffic hazard because the sightlines at the junction of Pound brook

lane with R755 are severely restricted and Pound brook lane is substandard in the width surface and alignment and there is insufficient evidence to show that the applicant has sufficient legal interest over the lane to upgrade or restrict traffic movements on the lane.

2. Having regard to the inadequate information in relation to the maximum storm flows in the existing stream and the potential flooding and associated impacts on the proposed development, it is considered that to permit the proposed development in the absence of a fully detailed Flood Impact Assessment would be contrary to the Planning System and Flood Risk Management Guidelines for Planning Authorities and proper planning and sustainable development.
3. It is Objective NH23 of the County Development Plan to *minimise alterations or interference with river/stream beds, banks and channels, except for reasons of overriding public health and safety (e.g. to reduce risk of flooding); a buffer of generally 10m along watercourses should be provided (or other width, as determined by the Planning Authority) free from inappropriate development, ...*

The proposed development by reason of the extent of the proposed culvert to the existing stream on site, the location of car parking spaces to serve units 20-25 beside the stream and lack of provision of 10m buffer from the stream would, it is considered, be contrary to this objective and would increase the risk of flooding, would impact negatively on the biodiversity of the site and therefore would be contrary to proper planning and sustainable development of the area.

4. Having regard to
  - (a) The substandard private open space for units 11-14, 18, 19, 22 and 25,
  - (b) The proposed boundary wall fencing along Brewery Bends,
  - (c) The removal of existing boundaries and trees,
  - (d) The proposal to construct retaining walls that encroach on adjoining properties,

- (e) The location of a turning area and open space to the side of unit 19 with no passive surveillance,

It is considered the proposed development would represent a substandard development would impact on the residential amenities of future residents and adjoining properties, would result in the unnecessary loss of mature trees and boundaries, would be contrary to the Objectives and Development and Design Standards of the County Development Plan 2016-2022, and would therefore be contrary to proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Further Information was requested in relation to the following;

1. Poundbrook Lane is substandard in surface, width and alignment and the sightlines at the junction are severely restricted. Submit proposals to show how Poundbrook Lane would be upgraded and sightlines at the junction with R755 improved to cater for the increase traffic movements. The applicant was requested to submit relevant confirmation that they have sufficient interest to carry out the works.
2. The Planning Authority is concerned that the layout as proposed would result in a corridor bounded by walls along the estate road. Submit details to justify the location of the entrance. Submit full design details of the proposed entrance.
3. Clarify the proposed road width and footpath widths. Clarify the design of the turning heard adjacent to House no. 19. Provided details to justify the location of additional car parking spaces opposite houses no's 7, 8 and 11-13. Provide full details of road marking and public lighting works.
4. The Planning Authority is concerned that the development could result in a further enclosure of the laneway resulting in an increased risk of antisocial behaviour. Submit details of the existing site boundaries along the laneway and what boundaries are to be removed to facilitate development, what new boundaries are proposed. The Planning Authority consider that the

development of the subject site should facilitate increased passive surveillance of the existing laneway and therefore proposals to provide this may be considered.

5. Having regard to the adjoining stream and pond of water at the proposed location of house numbers 15-19 the Planning Authority is concerned of possible flooding. The applicant is requested to carry out a flood risk assessment to justify the location of any development at this point on the site. It is unlikely that any permission would be granted for any development at this location on site unless proposals at this location can be clearly justified with the Flood Risk Guidelines 'Justification Test'.
6. In relation to the development and design standards in the County Development Plan, it is noted the proposed design of rear gardens of houses no's 18,19, 22, 24 and 25 are substandard having regard to garden size and location of boundary separation walls/fences which overlap the houses. Submit information to justify the proposed. It is unlikely that permission would be granted for substandard rear gardens.
7. Submit contiguous elevations along the R755 adjacent to Parnell Park which shows how the development is viewed from this section of the road.
8. The Planning Authority has concerns with regard to overlooking on existing dwellings to the east from units 1-8 and possibly on existing rear gardens to the south of the site from units 15-18. The proposed houses are comprised of two storeys with windows overlooking into these properties. Submit an assessment of the impact of the development on these properties.
9. It is unclear from the drawings submitted the exact location/extent of the various boundary details to the roads i.e. walls/railings. No details have been submitted with respect to what type of boundaries will be provided to the rear of the dwellings. Revised drawings required including a colour code showing all proposed boundaries, the length of such boundaries. The design of boundaries should be appropriate to their location.
10. Submit cross sections through the houses along the estate road showing all proposed and existing levels, the proposed dwellings and any proposed retaining structures.

11. Having regard to the fact that the existing house to be demolished is attached to another dwelling which is a Protected Structure and the lack of information provide to details how it is proposed to prevent any structure damage to the adjoining dwelling, a structural survey should be submitted carried out by a qualified engineer or suitably qualified professional with indemnity insurance to show how the proposed works would not negatively impact the stability of the adjoining Protected Structure. In the event that the proposed works could have any impact on the adjoining property the applicant should submit proposals for remedial measures or modify the proposals.
12. The proposed development along Poundbrook Lane is located adjacent to the Architectural Conservation Area of the main street as set out in the Rathdrum Local Area Plan, it is stated policy to protect the architectural heritage of Rathdrum. It is necessary to protect the Main Street from unnecessary unsympathetic development while promoting schemes which will enhance the character and appearance. The proposed development is considered out of character with the existing front elevation of the development in the vicinity of the site and that it would detract from the character of Main street ACA. Submit revised proposals to take cognisance of the ACA.
13. With reference to the proposed Part V housing proposed it is noted that house type B is not in accordance with the Guidelines set out in Quality Housing for Sustainable Communities. Furthermore, the Part V units are too close to the existing stream on site. The applicant is requested to address this issue.

Planning Report dated 16/7/19 – The Planning Authority were not satisfied with the responses provided in relation to the matter of vehicular access, proposed road layout, surface water drainage and potential flooding, design and layout of the proposed dwellings and permission was recommended for refusal on that basis.

### 3.2.2. Other Technical Reports

3.2.3. Municipal District Engineer – Further information sought in relation to proposed vehicular access arrangements.

3.2.4. Municipal District Engineer Report dated 24/2/19 – Should the Planning Authority decide to grant permission the applicant should be required to provide public lighting along Poundbrook Lane.

- 3.2.5. Roads Section Report dated 12/7/19 – Following the submission of further information it was concluded having regard to the additional vehicular movements on Poundbrook Lane and the design of the entrance of the entrance road that a refusal of permission be recommended.
- 3.2.6. Housing Section – No objection subject to condition.
- 3.2.7. CFO – No objection subject to condition.

### 3.3. **Prescribed Bodies**

Irish Water – No objection

Inland Fisheries Ireland – IFI are opposed to the proposal to culvert the stream as it traverses the site. It is IFI policy to maintain watercourses in their open natural state in order to prevent habitat loss, preserve biological diversity and aid in pollution detection. IFI recommends the retention of a natural riparian vegetation zone (10m minimum) free from development each side of the stream which may be enhanced through appropriate bankside and aquatic planting of native species. The proposal to culvert the stream is contrary to the stated objectives of the Wicklow County Development Plan NH1, NH12, NH20, NH23, NH32, NH34, NH35 and NH39.

### 3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received four submissions/objections in relation to the proposed development. The main issues raised are similar to those set out in the observation to the appeal.

## 4.0 **Planning History**

PA Reg. Ref. 90/5757 – Outline permission was granted for 15 New holiday homes and 2 replacement dwellings and effluent treatment system.

## 5.0 **Policy Context**

### 5.1. **Rathdrum Local Area Plan 2017 – 2023**

- 5.1.1. The site is subject to four different zonings



- 5.1.2. The northern section of the site is zoned TC – Town Centre with the Objective – To provide for the development and improvement of appropriate town centre uses including retail, commercial and civic use.
- 5.1.3. The section of the site adjacent to the stream is zoned OS2 – Open space with the objective to protect and enhance existing open, undeveloped lands. To protect, enhance and manage existing open, undeveloped lands that comprise flood plains, buffer zones along watercourses and rivers, steep banks, green breaks between built up areas, green corridors and areas of natural biodiversity.
- 5.1.4. The main section of the site is zoned objective R20 – New residential with the objective to protect, provide and improve residential amenities at a density up to 20 units/ha. To facilitate for the provision of high quality new residential developments at appropriate densities with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.
- 5.1.5. The section of the site to the western side of Poundbrook Lane is zoned objective RE – Existing Residential with the to protect and preserve existing residential uses and provide for infill residential development. To protect, provide and improve residential amenities of existing properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located and with minimal impact on the existing residential amenity.
- 5.1.6. Ref. No. 30-13 – Rathdrum Main Street – House – Three-bay, two-storey, early 19<sup>th</sup> Century house with painted rendering tripartite windows and round-headed doorcase with leaded fanlight. This Protected Structure adjoins the existing derelict dwelling on site.

## 5.2. **Wicklow County Development Plan 2016 – 2022**

- 5.2.1. Chapter 3 – refers to Residential Development
- 5.2.2. Chapter 4 – refers to Housing
- 5.2.3. Objective 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.

5.2.4. Chapter 9 – Infrastructure

5.2.5. Section 9.2.5 – refers to Flooding

5.2.6. Objective NH1 – To ensure that the impact of new developments on biodiversity is minimised and to require measures for the protection and enhancement of biodiversity in all proposals for large developments.

5.2.7. Objective NH23 – To minimise alterations or interference with river / stream beds, banks and channels, except for reasons of overriding public health and safety (e.g. to reduce risk of flooding); a buffer of generally 10m along watercourses should be provided (or other width, as determined by the Planning Authority) free from inappropriate development, with undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible. In all cases where works are being carried out, to have regard to Regional Fisheries Board “Requirements for the protection of fisheries habitat during the construction and development works at river sites”

5.2.8. Objective NH34 – New development and redevelopment proposals, where considered appropriate, are required to contribute towards the protection, management and enhancement of the existing green infrastructure of the local area in terms of the design, layout and landscaping of development proposals.

5.2.9. Objective NH35 – To facilitate the development and enhancement of suitable access to and connectivity between areas of interest for residents, wildlife and biodiversity, with focus on promoting river corridors, Natura 2000 sites, nature reserves and other distinctive landscapes as focal features for linkages between natural, semi natural and formalised green spaces where feasible and ensuring that there is no adverse impact (directly, indirectly or cumulatively) on the conservation objectives of Natura 2000 sites.

5.2.10. Appendix 1 – refers to Development Design Standards

### 5.3. **Project Ireland 2040 - National Planning Framework**

- 5.3.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.3.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

### 5.4. **Section 28 Ministerial Guidelines**

- 5.4.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
  - 'Design Manual for Urban Roads and Streets' (DMURS)
  - 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')

### 5.5. **Natural Heritage Designations**

- 5.5.1. The nearest Natura 2000 sites are;
- Vale of Clara (Rathdrum Wood) SAC c. 1.1km to the north.
  - Deputy's Pass SAC c. 4.7km to the north-east.

### 5.6. **Environmental Impact Assessment**

- 5.6.1. Having regard to the nature and scale of the development which consists of a scheme of 25 no. dwellings in a fully serviced urban 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

A first party appeal was submitted by the applicant Leslie Armstrong. The issues raised concern the following;

- The first reason for refusal refers to traffic hazard in relation to the sightlines at the junction of Poundbrook Lane and the R755 and the width and alignment of Poundbrook Lane.
- The applicant submits that no vehicular access is proposed to the development via Poundbrook Lane to the R755. Vehicular access to the scheme is proposed via Brewery Bends. The housing known as 'The Brewery' does not have vehicular access onto Poundbrook Lane and is accessed from Brewery Bends. Poundbrook Lane serves three existing dwellings on the northern side.
- Proposed houses no's 20-25 are two-bedroom dwellings located on lands zoned 'TC'. It is proposed to maintain the existing building line. It is submitted that the proposed house design would complement the nearby properties.
- No car parking is proposed at these properties. The car parking to serve houses no's 20-25 is proposed within a communal car parking area accessed via Brewery Bends.
- Opportunity site OP3 in the Rathdrum LAP 2017-2023 refers to lands between Brewery Lane and Poundbrook Lane. The LAP states that Poundbrook Lane is narrow and therefore the principle route to lands will be from the zoned residential lands to the west of Poundbrook Lane. The applicant proposes to install decorative railings along Poundbrook Lane within the site curtilage outside houses no's 20-25. This will ensure that the lane is only wide enough for one car to pass and would prevent cars parking to the front. This proposal is in accordance with the Objective OP3 which states, "New roads / streets

into and throughout this area shall be narrow with priority to pedestrians and structures shall generally be located directly on the street.”

- The existing lane on site is part of a pedestrian public right of way the width of this is not suitable for vehicular use. The applicant proposes to maintain the current width of the laneway and to install bollards across the laneway to ensure that its use is kept as an amenity/walking route. This is in accordance with RT12 of the Service Infrastructure Objectives of the Rathdrum LAP – “To preserve and enhance amenity/walking routes” with the route from Poundbrook Lane to Brewery Bend identified as one of the routes.
- The second reason for refusal refers to the provision of inadequate information in relation to maximum storm flows in the existing stream and the potential flooding and the requirement for a fully detailed Flood Impact Assessment.
- In response the applicant states that the Council were incorrect to require a fully detailed Flood Impact Assessment. He submits that it is a narrow tributary of the Avonmore River, that the flow of the stream is such that it is completely clogged with vegetation and therefore it is not affected by storm flows of any significance.
- Diarmaid O’Sullivan, Consulting Engineer provided a desk top based Flood Risk Assessment with the application. It is submitted that the Flood Risk Assessment is in accordance with the provisions of ‘the Planning System and Flood Risk Management Guidelines for Planning Authorities’ (2009) which states that flood risk assessments should be proportionate to the risk, scale, nature and location of the development.
- The site is not located within the identified Flood Risk zone for Rathdrum, the indicative Flood Zones Map C1, the Flood Map C.1.1 OPW PFRA zones A & B.
- Neither Wicklow Co. Council nor the OPW identified the application site as being at risk of flooding.
- The third reason for refusal refers to objective NH23 of the County Development Plan which requires minimum alterations or interference with

River/stream beds, banks and channels. It also refers to the proposal to culvert the existing stream on site and the location of car parking spaces serving units no's 20-25 beside the stream and the lack of provision of 10m buffer from the stream would be contrary to objective NH23 and would increase the risk of flooding and impact negatively on the biodiversity of the site.

- In response the applicant submits that the site is not located on or adjoining lands designated a Natura 200 site or NHA. The stream is referred to in the Rathdrum LAP, Local Biodiversity Areas Report as a “tributary stream” south of the town and states that the stream has a small catchment area confined to the southern part of the town.
- The applicant states that all construction would be 10m from the stream in compliance with NH23 of the Development Plan. It is considered that the proposed access road and small culvert are minor in nature and are necessary in order to serve the development. It is noted that a significant section of the site is culverted upstream. The stream is also culverted under the R755, the R752 and also under the Dublin to Rosslare railway line.
- The observation submitted from Inland Fisheries Ireland raised concern in relation to the proposed culvert. The submission states that it is the policy Inland Fisheries Ireland to maintain watercourses in their open natural state in order to prevent habitat loss, preserve biological diversity and aid in pollution detection. The applicant states that he is willing to retain the stream in its natural state in accordance with the requirements of Objectives NH1, NH23, NH34 and NH35 of the County Development Plan.
- The creation of a buffer zone of 10m along the stream may reduce the recreational use of some public open space. The proximity of Rathdrum Memorial Park is noted circa 5 minutes walking distance from the site. Therefore, the applicant requests that the requirement for 15% open space be waived.
- Refusal reason no. 4 states that the proposed development would represent a substandard development and would impact on the residential amenities of future residents and adjoining properties and would result in unnecessary loss

of mature trees and boundaries. It states that substandard private open space has been provided for units 11 to 14, 18, 19, 22 and 25.

- The applicant submits that house numbers 22-25 are two-bedroom units with 'TC' zoning and will replace a dilapidated dwelling house and outhouses which abut Poundbrook Lane. The proposal will improve the character of the lane. It is submitted that house numbers 11-14, 18 and 19 are zoned 'R20' and 'RE' and that the proposed private open space is commensurate with the zoning.
- It is submitted that the private open space proposed for units 11 to 14, 18 and 19 which are three-bedroom dwellings and units 22 to 25 which are two-bedroom units is in compliance with the Council's minimum private open space requirement.
- Regarding the proposed boundary wall along Brewery Bends, the difference in levels between the public road and the site has resulted in the requirement to construct retaining boundary walls to support a new roadway. It is not proposed to remove the existing boundary of hedges and trees on Brewery Bends. In relation to the removal of existing boundaries and trees the applicant proposes to leave the existing boundaries and trees where possible.
- The applicant submits that there is no encroachment onto adjoining properties in order to construct retaining walls. The turning space and open space area to the side of house no. 19 is required to enable refuse and delivery trucks turning manoeuvres within the scheme. It is submitted that there would be significant passive surveillance from the adjoining houses in Brewery Row of the open space area to the side of no. 19.
- In conclusion, it is submitted that the proposed development is an opportunity to revitalise this area of Rathdrum which would discourage anti-social behaviour and create an attractive link between the residential development on Brewery Bends and the main street.

## 6.2. Planning Authority Response

- None received

### 6.3. Observations

An observation to the first party appeal was submitted by Jennifer Foley. The issues raised concern the following;

- The observer Jennifer Foley owns the property Virginia House which is adjacent to the appeal site.
- The observer considers that the site would be appropriate for local housing and she would welcome the demolition of the derelict buildings. However, she considers that due to the topography of the site and the access arrangements that a different design approach is required.
- Having regard to the cross section indicated on Drawing No: 16\_093\_F08 the observer raises concern in relation to the height of the proposed development relative to her property Virginia House to the east. The rear doors of the proposed dwellings no. 3 and no. 4 would be 1m higher than the top of the chimney pot of Virginia House. The height of the proposed dwellings would be 10m above the roof line of Virginia House.
- The observer considers that the proposed development would dominate the vista on entering Rathdrum.
- The location of mature trees along the shared boundary between the observer's property and the appeal site is noted. It is stated that while the trees are located within her property the branches extend into the appeal site. The location of a granite wall within the observer's property is also noted. She sets out that it would not be possible to construct a wall as outlined in the application without damaging the trees on her property.
- The appeal does not address the issues raised by Wicklow Co. Council in relation to the retaining boundary wall, excessive height of house types A & C and the requirement to retain existing vegetation on the site boundary.
- The Observer submits that the proposed design of the scheme would not be in keeping with the traditional character of development within Rathdrum and that the scheme would dominate the skyline.



- The Rathdrum Local Area Plan refers to the natural environment and states, “encourage developers to incorporate and enhance features of the natural environment such as streams, riverbanks, treelines and hedgerows within open space layouts and in the planning of future developments”. The observer does not consider that this has been addressed in the proposed development.
- The applicant states that the stream running through the site is not of any significance and that it is clogged with vegetation which indicates that it is not affected by storm flows of any significance. The observer does not consider that it would be appropriate to culver the stream and that it should remain in its natural state to protect biodiversity and habitats.
- It is noted that the proposed density is above the quantum detailed in the Rathdrum Local Area Plan.
- The observer agrees with the assessment of the Planning Authority that Poundbrook Lane would become a car park for houses on the northern boundary. The provision of car parking with access through Brewery Bends would be located a significant distance from the proposed dwellings.
- The design of the proposed vehicular access to the site from Brewery Bends with a steep sharp turn would not be appropriate. Alternative access arrangements would be required in order to prevent the need for high retaining walls and sloping gardens.
- The observer fully agrees with the decision of the Planning Authority to refuse permission.
- In conclusion, the observer submits that a less dense and lower height development would be more in keeping with surrounding properties and the topography of the site.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issues of appropriate

assessment screening and environmental impact assessment also need to be addressed. The issues can be dealt with under the following headings:

- Design and layout
- Vehicular access and traffic
- Flooding
- Appropriate Assessment

## 7.1. Design and layout

- 7.1.1. Permission is sought for the demolition of the existing derelict dwelling on site and the adjoining outbuildings and the construction of 25 no. dwellings. The site is located to the western side of Rathdrum Main Street. The site is subject to four different zoning objectives as set out in the Rathdrum Local Area Plan 2017 – 2023.
- 7.1.2. The northern section of the site adjacent to the Main Street is zoned TC – Town Centre. Within this zoning it is proposed to demolish the existing dwelling and outbuildings and construct 6 no. terrace dwellings. The main section of the site is zoned objective R20 – New residential with the objective to protect, provide and improve residential amenities at a density up to 20 units/ha. It is proposed to construct 14 no. semi-detached dwellings within this area of the site.
- 7.1.3. The section of the site to the western side of Poundbrook Lane is zoned objective RE – Existing Residential with the to protect and preserve existing residential uses and provide for infill residential development. It is proposed to construct 5 no. dwellings within this area. The section of the site adjacent to the stream is zoned OS2 – Open space with the objective to protect and enhance existing open, undeveloped lands. It is proposed locate open space and car parking within this area.
- 7.1.4. The site area is 1.07 hectares. The proposed development of 25 no. houses would provide a density which would be equivalent to 23.4 units per hectare. As set out under objective of R20 in the Rathdrum Local Area Plan a density of up to 20 units/ha is specified. The achievement of more sustainable densities in settlements is set out in National Policy Objective 35 of Project Ireland 2040 - National Planning

Framework. However, having regard to the topography of the site and the provisions of the Rathdrum Local Area Plan I would consider that the proposed density of 23.4 units per hectare would be appropriate.

- 7.1.5. The fourth reason for refusal issued by the Planning Authority refers to the design and layout of the proposed scheme with particular reference to the substandard private open space for the proposed dwellings 11-14, 18, 19, 22 and 25. The Planning Authority also cited the proposed boundary wall fencing along Brewery Bends, the removal of existing boundaries and trees, the proposal to construct retaining walls that encroach on adjoining properties.
- 7.1.6. Appendix 1 of the County Development Plan refers to Development Design Standards. Private open space standards are set out in page 11. A dwelling with 1-2 bedrooms requires a minimum private open space of 50sq m. Dwellings with 3 bedrooms or more required 60-75sqm as a minimum. It is outlined that as a general rule of thumb 0.64sq m of private open space shall be provided for each 1sqm of house floor area.
- 7.1.7. Dwellings no. 11-14 are two-storey three-bedroom units with a floor area 105.5sq m. Therefore, the private amenity space for these units should be a minimum of 67.52sq m as per the development plan standards. The proposed private open space for unit 11 is 81sq m, is 66.75sq m for units no. 12 and no. 13 and is 63sq m for unit no. 14. Therefore, the provision is under the requirement for units 12, 13 and 14.
- 7.1.8. Dwelling no. 18 is a three-bedroom semi-detached unit with a floor area of 95.6sq m. Therefore, the private amenity space for this unit should be a minimum of 61.18sq m. The rear garden area proposed to serve this dwelling is restricted due to the proximity of the boundary. The rear garden has an area of circa 55sq m. Dwelling no. 19 is a three-bedroom detached unit with a floor area of 86.8sq m. Therefore, the private amenity space for this unit should be a minimum of 60sq m. The rear garden area proposed to serve this dwelling is very restricted due to the proximity of the boundary. The area proposed is circa 30sq m which is significantly below the minimum required standard. Dwelling no. 22-25 are two-bedroom terrace dwellings with a floor area of 95.6sq m. A minimum area of 50sq m is required to serve a two-bedroom dwelling. Based on the requirement to provide 0.64sq m of private open space per 1sq m of house floor area, these dwellings would require a minimum of

61.18sq m. House no. 22 has a rear garden of 67sq m, house no. 23 has a rear garden of 67sq m, house no. 24 has a rear garden of 50sq m and house no. 25 has a garden area of 50sq m. Therefore, there is a shortfall in private amenity space provision for at least 7 no. of the proposed dwellings.

- 7.1.9. In relation to public open normally a rate of 15% of the site is required. Spaces less than 10m in width or 200sqm in area will not be counted as useable public open space; nor will space that is excessively sloping or otherwise unsuitable for usage. A rate of 15% of the total site area is also recommended in the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2008. The site area is 1.07 hectares. Therefore, public open space of circa 0.16 hectares 1,605sq m is required. The useable public open space area on site is circa 1300sq m which is under the required 15%. The applicant requests that the proximity of Parnell Memorial Park to the south-east of the site be considered.
- 7.1.10. The Planning Authority had strong concerns in relation to the design of the scheme specifically the proposal to construct retaining walls that would encroach on adjoining properties proposed boundary wall along Brewery Bends and the removal of existing boundary hedges and trees. I consider that the proposed development's integration with the surrounding area in terms of its layout and design is of importance given the character of this area and the undulating nature of the land. In this regard the development, in terms of the layout, topography and design of the dwellings are considered further hereunder.
- 7.1.11. Objective HD2 of the Development Plan refers to new housing development and specifies that 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. Appendix 1 of the County Development Plan refers to Development Design Standards and in relation to small-medium scale housing developments it requires that visual integration and physical connectivity with the area surrounding the site will be required to be at the fore of any design model. The Design Standards set out that that the layout of new development shall to have a relationship with the public realm with windows overlooking exiting streets and open spaces. 'Design Manual for Urban Roads and Streets' (DMURS)

published by the Department of Environment, Community and Local Government provides guidance in relation to street design and design of residential areas. The four key design principles are connected networks, multi-functional streets, a pedestrian focus and a multi-disciplinary approach. In this regard it is required that residential areas be accessible from multiple points, pedestrian barriers be avoided in layouts and that there will be no frontage free distributor roads, with long uninterrupted straights and high boundary walls.

7.1.12. House no's 1-8 are located along the eastern side of the site. They are two-storey properties and a retaining wall is proposed along this section of the site due to the difference in proposed ground level of circa 4m between the proposed dwellings and the neighbouring dwellings to the east along the R755. The retaining wall is proposed along the party boundary with the neighbouring properties therefore in the absence of agreement from the adjoining landowners it is unclear whether the retaining wall as proposed could be constructed. The proposed dwellings would be setback over 22m from those neighbouring properties. Dwellings no's 9-14 are proposed to the southern area of the site. Due to the topography of the site and the proposed vehicular access arrangements via Brewery Bends it would be necessary to carry a significant level of earthworks at this location and construct a series of three retaining walls between the proposed dwellings and the southern site boundary to facilitate the location of the proposed estate access road. These proposals would include the construction of a wall type 1, a 1.8m high rendered and capped wall along the southern boundary. While I note that new planting is proposed along the southern roadside boundary, it is preferable to retain existing natural boundaries where possible and the southern boundary is currently defined by mature trees and hedges.

7.1.13. Given the site context with the existing Brewery Bend housing scheme located on the opposite side of the road at Brewery Bends it is important that the proposed scheme be designed to integrate with the surrounding housing. The siting of houses to the southern section of the site backing onto the estate road with the proposed extensive retaining walls and new boundary wall would result in a lack of visual integration with Brewery Bends. The Urban Design Manual encourages that the layout of residential schemes focus activity on streets by creating active frontages and that public open space is overlooked by surrounding homes to ensure the

amenity is owned by residents and is safe to use. While I note in general the scheme provides that the communal open spaces are overlooking, the design and layout including the proposed alterations of the existing topography and specifically the extensive use of retaining walls within the scheme, the removal of existing boundary hedge and the proposed boundary wall along Brewery Bends, would I consider constitute an unattractive and inappropriate housing scheme contrary to the provisions of DMURS, the Urban Design Manual and Appendix 1 of the Development Plan.

## **7.2. Vehicular access and traffic**

- 7.2.1. Refusal reason no. 1 as issued by the Planning Authority stated that the proposed development would endanger public safety by reason of serious traffic hazard because the sightlines at the junction of Pound brook lane with R755 are severely restricted and Pound brook lane is substandard in the width surface and alignment and there is insufficient evidence to show that the applicant has sufficient legal interest over the lane to upgrade or restrict traffic movements on the lane.
- 7.2.2. The applicant in response to the matter argues the proposed scheme does not propose vehicular access via Poundbrook Lane to the R755 and that the vehicular access is proposed from Brewery Bends to the south. The Planning Authority in their assessment of the proposal raised concerns that the House no's 20-25 are located along Poundbrook Lane which is substandard in terms of surface, width and alignment. Furthermore, the sightlines in a southward direction at the junction of Poundbrook Lane and the R755 Main Street are restricted. It was noted that residents exiting the site from dwellings 9-19 could exit the estate via Poundbrook Lane.
- 7.2.3. The applicant proposed to install decorative railings along Poundbrook Lane within the site curtilage outside houses no's 20-25. The applicant submits that this will ensure that the lane is only wide enough for one car to pass and would prevent cars parking to the front in order to restrict vehicular access onto Poundbrook Lane. I note that the site layout plan Drawing No: 16 093 F01 submitted in response to the further information indicates 2 no. bollards located circa 90m along the lane on the section adjacent to the stream. However, the Planning Authority were not satisfied that these

proposals would prevent additional traffic from using the lane and that residents could use the northern end of the lane as a drop off/collection and parking area.

- 7.2.4. I also note the comments from the Senior Engineer in Planning Section dated 18/7/19 which state that due to the topography of the site it is difficult to develop and that the optimum solution for its development would be to access the site from Poundbrook Lane. This would result in the requirement for less earthwork and use of retaining walls. Poundbrook Lane and the junction with the R755 would require to be upgraded.
- 7.2.5. In relation to the topography of the site I note that there is a fall in circa 10m from the southern boundary at Brewery Bends to Poundbrook stream. The proposed vehicular access onto Brewery Bends features a sharp bend on the proposed estate access road. If vehicular access were provided via Poundbrook it would negate such a road layout and reduce the extent of roadway within the scheme while providing more amenity space.
- 7.2.6. Regarding the 6 no. two-storey terrace dwellings proposed along Poundbrook Lane, I note that the car parking proposed to serve these properties is within a communal car parking area accessed via Brewery Bends. This communal car parking area is located to the east of the dwellings and on the northern side of Poundbrook stream. There is footpath indicated at the proposed communal parking area to the rear boundaries of houses no's 20-25 it is unclear if a pedestrian access is proposed from the rear of the properties to the car parking area as the proposed boundary is indicated on the site sections on Drawing No: 16 093 F011 as wall type 1 a 1.8m high rendered and capped wall. Having regard to the proposed layout and location of the proposed car parking spaces I would concur with the assessment of the Planning Authority that it is likely that residents would use the upper section of Poundbrook lane for parking and drop-off/collection.
- 7.2.7. Notwithstanding the applicant's proposals to provide railings along the south-eastern side of Poundbrook lane, I consider that given the proximity to the Main Street it is likely this area would be used for parking and drop-off/collection by future residents. Having regard to the maps and plans submitted, I note that the redline boundary of the application site does not extend across the full width of Poundbrook lane. Therefore, I am not satisfied that the evidence to show that the applicant has

sufficient legal interest over the lane to upgrade or restrict traffic movements on the lane. In the absence of such details and proposals to upgrade the lane and improve sightlines in a southwards direction at the junction of Poundbrook Lane and the R755 Main Street, I consider that the proposed development would endanger public safety by reason of traffic hazard.

### **7.3. Flood Risk**

- 7.3.1. Refusal reasons no. 2 and no. 3 as issued by the Planning Authority refer to the matter of flood risk. As detailed in refusal reason no. 2 the Planning Authority considered that inadequate information was submitted in relation to the maximum storm flows in the existing stream, Poundbrook stream and that in the absence of a detailed Flood Impact Assessment that the proposed development would be contrary to the provisions of Planning System and Flood Risk Management Guidelines for Planning Authorities and proper planning and sustainable development.
- 7.3.2. Refusal reason no. 3 referred to Objective NH23 of the County Development Plan. This specifies that it is an objective to minimise alterations or interference with river/stream beds, banks and channels, except for reasons of overriding public health and safety (e.g. to reduce risk of flooding); a buffer of generally 10m along watercourses should be provided free from inappropriate development. The Planning Authority were not satisfied with the proposal to culvert to the existing stream on site, the proposed location of car parking spaces to serve units 20-25 beside the stream and lack of provision of 10m buffer from the stream.
- 7.3.3. Appendix C of the Rathdrum Local Area Plan 2017 – 2023 refers to the Strategic Flood Risk Assessment. Flood Map C1.1 OPW PFRA indicates PFRA Zone A and PFRA Zone B. In relation to this map, I note that PFRA Zone A is indicated as extending west along the section of the Poundbrook Stream from its confluence with the Avonmore River to Parnell Memorial Park. The extent of PFRA Zone A lies circa 80m from the appeal site.
- 7.3.4. Indicative Flood Zone Map C1 indicates Flood Zone A and Flood Zone B. While the area indicated to fall within Flood Zone A and Flood Zone B lies predominately along the lands directly adjoining the Avonmore River, I note that Flood Zone B is indicated as extending west along the section of the Poundbrook Stream from its confluence with the Avonmore River along Parnell Memorial Park to the boundary of the park



and the R755 Regional Road. Based on this Indicative Flood Zone Map, Flood Zone B lies circa 26m from the appeal site.

7.3.5. Section 9.2.5 of the Development Plan refers to Flooding. Objective FL4 refers to applications for new developments or significant alterations/extension to existing developments in a flood risk area shall comply with the following the 'sequential approach' as set out in the Flood Risk Guidelines.

- Flood risk assessments will be required with all planning applications proposed in areas identified as having a flood risk, to ensure that the development itself is not at risk of flooding and the development does not increase the flood risk in the relevant catchment (both up and down stream of the application site).
- Where a development is proposed in an area identified as being at low or no risk of flooding, where the planning authority is of the opinion that flood risk may arise or new information has come to light that may alter the flood designation of the land, an appropriate flood risk assessment may be required to be submitted by an applicant for planning permission.
- Restrict the types of development permitted in Flood Zone A and Flood Zone B to that are 'appropriate' to each flood zone, as set out in Table 3.2 of the guidelines for Flood Risk Management (DoEHLG/OPW, 2009).
- Developments that are an 'inappropriate' use for a flood zone area, as set out in Table 3.2 of the guidelines, will not be permitted, except where a proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.
- Flood Risk Assessments shall be in accordance with the requirements set out in the Guidelines.
- Generally a Flood Impact Assessment will be required with all significant developments and a certificate (from a competent person stating that the development will not contribute to flooding within the relevant catchment) will be required with all small developments of areas of 1 hectare or less.

7.3.6. The provisions of Objective FL4 as set out in the Development Plan provide the Planning Authority with the scope to require submission of an appropriate flood risk

assessment in the case where a development is proposed in an area identified as being at low or no risk of flooding, but where the planning authority is of the opinion that flood risk may arise.

- 7.3.7. In response to the matter of flood risk the applicant states in the appeal that the Planning Authority Council were incorrect in requiring the submission of a fully detailed Flood Impact Assessment. The applicant described the Poundbrook stream as a narrow tributary of the Avonmore River. He submits that the flow of the stream is such that it is completely clogged with vegetation and therefore it is not affected by storm flows of any significance. The applicant also submits that the desk top based Flood Risk Assessment prepared by Diarmaid O'Sullivan, Consulting Engineer satisfactorily addresses the matter.
- 7.3.8. The desk top based Flood Risk Assessment was submitted in response to the further information request. It is stated in the study that the site is located within flood zone C and that it is therefore reasonable to assume that the threat of flooding to the development does not need to be investigated. It was set out in the study that it was proposed to culvert the stream due to the minor nature and size of the stream. A concrete box culvert of 4.68m<sup>2</sup> is proposed. The culverting of the stream is recommended in the study to prevent any potential flooding issues. In relation to the proposal to culvert the stream I note the report from Inland Fisheries Ireland which is not in favour of the proposal because it is their policy to maintain watercourses in their natural open state in order to prevent habitat loss, preserve biological diversity and aid pollution detection. Inland Fisheries Ireland therefore recommend the retention of a natural riparian buffer zone of 10m. The applicant has stated in the appeal that he is amenable to retaining the stream in its natural state in accordance with the requirements of Objectives NH1, NH23, NH34 and NH35 of the County Development Plan.
- 7.3.9. The desk top based Flood Risk Assessment did not provide any details of maximum storm flows in the existing stream and the potential flooding and associated impacts on the proposed development. Having regard to the greenfield nature of the site, the location of the Poundbrook stream on site which is within the catchment of the Avonmore River and the proximity of the site to Flood Zone B, and the lack of details provided in relation to the maximum storm flows in the Poundbrook stream I am not satisfied that the applicant has satisfactorily demonstrated that the proposed

development would not give rise to an increased risk of flooding of the site or of property in the vicinity.

- 7.3.10. Regarding to the issue of flooding, I consider that the Board should exercise a precautionary approach in determining the current application before it, having particular regard to the devastating consequences which arise as a result of flooding in highly vulnerable development such as residential development.

#### 7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, and the location of the site within an established urban area, and its distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

- 8.1. I recommend a refusal of permission for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

1. The site of the proposed development is located on a Poundbrook Lane which is seriously substandard in terms of width, alignment, surfacing and carrying capacity to facilitate vehicular movements to and from the site. There is insufficient evidence to show that the applicant has sufficient legal interest over the lane to upgrade or restrict traffic movements on the lane. Furthermore, sightlines are restricted in a southwards direction at the junction of Poundbrook Lane and the R755, Main Street. It is considered that the additional traffic associated with the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would, therefore, be contrary to the proper planning and development of the area.
2. Having regard to the greenfield nature of the site, the location of the Poundbrook stream on site which is within the catchment of the Avonmore River and the proximity of the site to Flood Zone B, and on the basis of the submissions made in connection with the planning application and appeal and in the absence of a fully detailed Flood Impact Assessment, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its design and layout and qualitative provision of private open space and communal open space would fail to establish a satisfactory standard of amenity for future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area would conflict with the provisions of the Development Plan and with the minimum standards recommended in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2009.

4. Having regard to the proposed alterations of the existing topography and specifically the extensive use of retaining walls within the scheme, the removal of existing boundary hedge and the proposed boundary wall along Brewery Bends, it is considered that the proposed development would constitute an unattractive and inappropriate housing scheme, which would not accord with the prevailing character of the area or contribute positively to the public realm, contrary to the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May, 2009, DMURS and which would also conflict with the policies of the Wicklow County Development Plan 2016-2022, particularly Objective HD2 and the provisions of Appendix 1 of the Development Plan. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

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Siobhan Carroll  
Planning Inspector

16<sup>th</sup> December 2019