



An
Bord
Pleanála

Inspector's Report

ABP-307660-20

Development	Construction of a new two storey dwelling, wastewater treatment unit and shared site vehicular entrance.
Location	Cunard, Glenasmole, Tallaght, Dublin 24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0060
Applicant(s)	John Keegan and Laura Nunez
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	John Keegan and Laura Nunez
Observer(s)	John Lahart
Date of Site Inspection	30 th September 2020
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at Cunard, Glenasmole in Dublin 24. The site is located c.5km south from the urban areas of Kiltipper and Ballycullen along the southern edge of the built-up area of the city.
- 1.2. The site is located in a rural area of South Dublin, within the rising hills of the Dublin Mountains from the Glenasmole Valley. The Upper Bohernabreena Reservoir and a tributary stream of the River Dodder are located c. 550m and c.100m respectively to the southwest of the site. At Cunard, c. 100m to the north of the site, is a cluster of residences, principally traditional cottages, and outbuildings at the junction of Castlekelly Road and Cunard Road Lower.
- 1.3. The site is located on the southwestern side of the Castlekelly Road, a narrow public road, and comprises the side garden/ lawn area of an existing dormer style detached residence. The west of the site includes part of an agricultural field which is presently outside of the hedgerow boundary of the existing residence. The site slopes down from the public road in a southwesterly direction towards the valley floor. The site levels indicate a decrease of c.5m from the public road to the west of the site.
- 1.4. The area of the site within the red line boundary is given as 0.108 ha. No blue line boundary has been indicated.
- 1.5. The existing dwelling, adjacent to the north, is indicated as being the family home and current residence of the applicant.

2.0 Proposed Development

- 2.1. The proposed development comprises a detached dwelling, wastewater treatment plant with polishing filter, and a shared vehicular entrance. The proposed dwelling is sited centrally within the site, c.7m to the southern side of the existing dwelling, c. 17.5m from public road, and c. 18.5m to the new rear boundary.
- 2.2. The vehicular access and front boundary for the proposal are those of the existing property, comprising low boundary wall, wingwalls and hedging. The southern and western site boundaries overlap/ extend beyond the hedgerow boundaries of the existing property.

- 2.3. The proposed dwelling is set into the rising hill-face with accommodation at ground and lower ground floor levels. The proposed dwelling is single storey in scale at the front elevation to the public road, with a two storey element projecting from the rear elevation. The external finishes include a metal roof of dark grey colour, stone for the front of the dwelling, with a mix of render and stone proposed for the two storey element. The single storey element of the dwelling is of a simple elevational design, with the rear projection having a more modern approach in elevational design and fenestration proportions, and includes a terrace area with external steps on the southern side elevation.
- 2.4. The principal dimensions of the dwelling include c.7.32m in height, c.14.4m in depth and 11.15m in width. The stated floor area of the dwelling is 195 sqm, with living accommodation at ground floor level and bedroom accommodation at lower level. The floor plans indicate 3 no. double bedrooms, with a fourth room indicated as being another double bedroom/ office space.
- 2.5. The proposal includes a wastewater treatment plant with polishing filter located at the western part of the site, beyond the rear hedgerow boundary of the existing property.

3.0 Planning Authority Decision

3.1. Summary of Decision

On 22nd June 2020, the Planning Authority issued a Notification of Decision to Refuse Permission for 5 no. reasons that can be summarised as follows:

1. The site is located in an area that is zoned as High Amenity Dublin Mountains 'HA-DM' with the objective '*To protect and enhance the outstanding natural character of the Dublin Mountains Area*', and under strong urban influence. The applicant does not comply with the requirements of Policy H23 in respect of not having:
 - (i) adequately demonstrated a genuine need for a house in this location given the close proximity to established urban areas;

(ii) adequately demonstrated that the development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming;

(iii) demonstrated that the development would not prejudice the environmental capacity of the area or that it would be in keeping with the character of the mountain area.

As such the proposed development would materially contravene the provisions of the Development Plan and is contrary to the HA-DM zoning objective.

2. Due to the prominent and highly visible location and the structure's excessive height, depth and inappropriate design, the proposed dwelling would not complement the character of the local area, and would detract significantly from the character and natural beauty of the site and surrounding Dublin Mountain area. The proposal is therefore contrary to Policies HCL7, HCL9 and the HA-DM zoning objective, and injurious to the visual amenities of property in the vicinity.
3. The proposal constitutes undesirable ribbon development on a substandard rural road. Additional movements on the surrounding road network will reduce the amenity and increase the road hazard for local residents. The proposed development would endanger public safety by reason of being a traffic hazard or an obstruction to road users.
4. The Planning Authority is not satisfied, on the basis of information submitted in relation to surface water, that the proposed development would not adversely affect the integrity of the proximate Glenasmole Valley and Wicklow SACs, and the proposal is therefore contrary to Policies HCL12 and HCL13.
5. The Planning Authority is not satisfied that sufficient quality or quantity of private amenity space is provided for the existing and proposed dwellings, and the proposal is therefore contrary to Policy H13.

4.0 Planning Authority Reports

4.1. Planning Report

The planner's report is the basis for the Planning Authority decision. In addition to the matters cited in the refusal reasons, the report notes, inter alia:

- The site is located within the 'Schedule 4: Restricted Areas for Development Glenasmole Bohernabreena' map, but is in an area where development is open to consideration. The site is located below the 350m contour line (note: this consideration is relevant for the HA-DM zoning objective and land use matrix).
- No evidence has been provided by the applicant that vegetable growing is the primary source of employment, nor has the current source and location of employment been provided.
- The use of a cottage style design for the front elevation of the proposed dwelling is acknowledged, but the modern design and external treatment of the two storey element are considered to be visually dominant and out of context in the site and surrounding area.
- The quantum of private amenity space to serve the proposed dwelling and that remaining for the existing adjacent dwelling has not been provided. The Development Plan requires minimum areas of 60 sqm for 3 no. bedroom houses and 70 sqm for 4 no. bedroom houses. The planner notes the sloping nature of the rear garden areas and expresses concern in relation to both the quality and quantum of private open space.
- It is stated that no comments have been provided by Irish Water and the EPA (note: it is considered possible that the reference to the EPA was an incorrect one, and EHO was intended).
- While the Appropriate Assessment Screening Report submitted with the application concludes that the proposal will not have a significant impact on or adversely affect the integrity of the proximate Natura 2000 sites, Section 5.1 paragraph 4 of the Report is highlighted in which a potential source-pathway-receptor link is identified between the site and the Glenasmole Valley SAC.

4.2. Other Technical Reports

Roads: refusal recommended on the grounds of intensification of traffic on a substandard road which is narrow with no regular passing bays and will lead to a traffic hazard.

Water Services:

- Surface Water – further information requiring a report/ drawing for the proposed system with details of attenuation, discharge method, discharge rates, and incorporation of SuDS measures.
- Flood risk – no objection subject to conditions in respect of separation of surface water and foul drainage systems.
- Water – referred to EHO and Irish Water as water supply source is unclear.
- Foul Drainage – referred to EHO.

Parks & Landscape Services/ Public Realm: no objection subject to conditions requiring a landscape plan, tree and hedgerow protection measures and a bond, and agreement of boundary treatment.

4.3. Prescribed Bodies

An Taisce: submission made to the Planning Authority objecting to the proposal due to;

- the failure to comply with each of the four requirements of Policy H23;
- the proposal constitutes a proliferation of rural housing in an area under strong urban influence and would hinder the achievement of the National Planning Framework; and
- the proposal would create an undesirable precedent for others.

Irish Water: No report received on file.

4.4. Third Party Observations

Two third party observations were made to the Planning Authority from South Dublin County Councillors, Cllr Deirdre O'Donovan and Cllr Charlie O'Connor, who both indicated their support for the planning application.

5.0 Planning History

Appeal Site:

No planning history.

Adjacent Site to South:

PA Ref. SD06A/0909: Planning Authority refused permission for 4 no. reasons on 13th December 2006 for a dormer bungalow with waste water treatment plant and site works.

The refusal reasons included the proposed dwelling being visually obtrusive; interfering with a preserved view; materially contravening the Dublin Mountain Area zoning; and being prejudicial to public health due to the septic tank and percolation area being located within 100m of a stream in the Bohernabreena catchment area.

Site to Southwest:

PA Ref. SD16A/0347, ABP Ref. PL06S. 247795: ABP refused permission on 16th May 2017 for a bungalow on footprint of original house, alteration of vehicular access and associated site works for 4 no. reasons that can be summarised as follows:

- the applicant not coming within the scope of exceptional circumstances in Policy H23 Objective 1;
- the Board not being satisfied that the proposed development, including a wastewater treatment plant on a poorly draining site, would not adversely affect the integrity of the Glenasmole Valley SAC;
- the proposed development would detract significantly from the open character and natural beauty of the Dublin Mountain Area, be contrary to Policy HCL7

and zoning objective 'To protect and enhance the outstanding natural character and amenity of the Dublin Mountains'; and

- the Board is not satisfied that the subject site is suitable for the safe disposal of foul effluent and the proposed development would be prejudicial to public health and give rise to a serious risk of water pollution.

6.0 Policy Context

6.1. Development Plan

The applicable development plan is the *South Dublin Development Plan 2016-2022*. The appeal site is located in the High Amenity Dublin Mountains 'HA-DM' zoning with the objective '*To protect and enhance the outstanding natural character of the Dublin Mountains Area*'.

The proposed development comprises a new dwelling with a wastewater treatment plant in a visually and environmentally sensitive rural location proximate to a number of European sites, a proposed Natural Heritage Area (pNHA), the River Dodder and the Bohernabreena Reservoir. There is a range of relevant policy, which includes the policies referred to in the refusal reasons.

6.1.1. Rural Housing Policy

Section 2.5.4 Rural Housing in HA-DM outlines the qualification criteria for new dwellings in the Dublin Mountains, and contains Policy H23.

Housing (H) Policy 23 Rural Housing in HA – Dublin Mountains Zone states it is Council policy '*that within areas designated with Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) new or replacement dwellings will be only be considered in exceptional circumstances.*'

Policy H23 contains Objective 1 which includes these circumstances, stipulating a new rural dwelling will be considered '*...where all of the following criteria are met:*

- *The applicant is a native of the area; and*

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

These criteria are in accordance with the Sustainable Rural Housing Guidelines (2005), having regard to the outstanding character of the area and the need to preserve the environmental and landscape quality of this area.

Section 2.5.8 Rural House and Extension Design outlines the required approach for new rural dwellings and extension/ or extensions, indicating standards in respect of the design and infrastructure requirements. The section includes Policy H27.

Housing (H) Policy 27 Rural House and Extension Design states it is Council policy *'to ensure that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.'*

Policy H27 contains Objective 1 which, as considered relevant to the appeal, specifies that in the HA-DM zoning *'...all new housing...:*

- *Is designed and sited to minimise impact on the landscape including views and prospects of natural beauty or interest or on the amenities of places and features of natural beauty or interest including natural and built heritage features; and*
- *Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and*
- *Is designed and sited to minimise impact on the site's natural contours and natural drainage features; and*
- *Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls; and*

- *Would comply with Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards; and*
- *Would not create or exacerbate ribbon or haphazard forms of development.'*

Section 11.3.4 Rural Housing contains additional standards and specifications for rural housing qualification, design and servicing. Of relevance to the proposed development, includes the stated requirement that domestic effluent treatment plants and percolation areas serving new rural houses shall comply with the requirements of the EPA's Code of Practice.

6.1.2. **Heritage, Conservation and Landscape Policy**

Section 9.2.0 Landscapes details the diversity, value and sensitivity of the five different landscape areas in the County, and contains Policies HCL7 and 9.

Heritage, Conservation and Landscapes (HCL) Policy 7 Landscapes states it is Council policy *'to preserve and enhance the character of the County's landscapes particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.'*

Policy HCL7 contains Objectives 1 and 2 that seek to protect the County's landscapes and to assess developments against the Landscape Character Assessment of the County.

Heritage, Conservation and Landscapes (HCL) Policy 9 Dublin Mountains states it is Council policy *'to protect and enhance the visual, recreational, environmental, ecological, geological, archaeological and amenity value of the Dublin Mountains, as a key element of the County's Green Infrastructure network.'*

Policy HCL9 contains Objective 1 and Objective 4 which respectively, seek the restriction of development to the amenity potential or agricultural use of the Dublin Mountains and minimisation of environmental and visual impacts, and the enhancement of the ecological features in the Dublin Mountains.

Section 9.3.0 Natural Heritage Sites provides information on the Natura 2000 Sites (SACs and SPAs) and the proposed Natural Heritage Areas (pNHAs) in the County, and contains Policies HCL12 and 13.

Heritage, Conservation and Landscapes (HCL) Policy 12 Natura 2000 Sites states it is Council policy *'to support the conservation and improvement of Natura 2000 Sites and to protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site.'*

Policy HCL12 contains Objective 1 that seeks to prevent development that would adversely affect Natura 2000 sites within and adjacent to the County.

Heritage, Conservation and Landscapes (HCL) Policy 13 Natural Heritage Areas states it is Council policy *'to protect the ecological, visual, recreational, environmental and amenity value of the County's proposed Natural Heritage Areas and associated habitats.'*

Policy HCL13 contains Objective 1 that seeks to minimise the impact of development on the value of a pNHA.

6.1.3. **Water Services Infrastructure Policy**

Section 7.2.0 Surface Water and Groundwater contains policy and objectives relating to water quality, protection measures, and SuDS and contains Policy IE2.

Infrastructure & Environmental Quality (IE) Policy 2 Surface Water & Groundwater states it is the Council's policy *'to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.'*

Policy IE2 contains Objectives 5 and 8, which respectively, seek to limit surface water runoff from new developments through the use of SuDS instead of underground attenuation and storage tanks; and to protect watercourses such as the River Dodder including the Bohernabreena Reservoir, which is recognised to be exceptional in supporting salmonid fish species.

Section 11.6.1 Water Management contains additional standards and specifications for water services infrastructure including surface water, SuDS, groundwater, rainwater harvesting and water supply. Of relevance to the proposed development, SuDS are required to be incorporated into all new developments and only as a last resort will consideration be given to alternative measures such as the installation of underground attenuation tanks.

6.1.4. Residential Development Standards

Section 2.3.0 Quality of Residential Development outlines the requirements for new residential development, and contains Policy H13.

Housing (H) Policy 13 Private and Semi-Private Open Space states it is the Council's policy *'to ensure that all dwellings have access to high quality private open space (inc. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments.'*

Policy H13 contains Objective 3 requires private amenity space for houses to meet certain quantitative and qualitative standards. These standards are outlined, for the most part, in **Section 11.3.1 (iv) Dwelling Standards** which indicates that minimum floor areas and private open space for a 3 no. bedroom house are 92 sqm and 60 sqm, and for a 4 no. + bedroom house are 110 sqm and 70 sqm respectively. In relation to the quality of private open space, this subsection adds it should be located behind the front building line of the house and be designed to provide for adequate private amenity.

6.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a European Site or a pNHA.

There are a number of such designations in proximity to the appeal site, the closet of which include the following:

- Glenasmole Valley SAC and pNHA (site code 001209) is 500m to the west;
- Wicklow Mountains SAC (site code 002122) is 600m to the southwest and 610m to the east;

- Wicklow Mountains SPA (site code 004040) is 1.13km to the southeast.

6.3. EIA Screening

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

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

- Insufficient account has been given to the applicant's upbringing in and community ties to this rural area;
- The applicant has not been able to afford to purchase a property/ site locally and has been left with no other option than to construct a dwelling on family lands;
- The applicant's approach to sustainable gardening is the 'modern day farming' that should be encouraged in these rural mountainous areas;
- Concerns in relation to screening, landscaping and external materials proposed for the dwelling could have been addressed by condition;
- The steep sloping nature of the site required the resultant design solution of a 'compact rural cottage' to the front, and a two storey structure, with accommodation at the lower ground level, to the rear;
- No extra traffic will be generated by the proposed dwelling as the applicant already uses the entrance and a shared entrance is proposed, which the local authority does not appear to have assessed;
- The proposed dwelling does not contribute to ribbon development but enforces the cluster of the local village;

- The site is not located within a SAC, the Screening Report concludes there will be no impact and the local authority's interpretation would not seem to be correct;
- Concerns in relation to stormwater appear more suited to an urban area, water is proposed to be attenuated with a rainwater harvesting system and a condition is invited for same;
- The remaining garden for the existing house would exceed 70 sqm; and
- The appeal documentation includes additional information outlining the attempts to purchase properties in the area, participation in community activities, details of the approach to sustainable living and future gardening plans, and manufacturer specifications for the newly proposed rainwater harvesting system.

7.2. Planning Authority Response

The Planning Authority has responded to the appeal confirming its decision and stating that the issues raised in the appeal were covered in the planner's report.

No comment is made on the additional information submitted by the applicant, including the newly proposed rainwater harvesting system.

7.3. Observations

One observation has been made on the application by John Lahart, TD. The observation highlights:

- The site has been given to the applicant by a parent;
- The applicant's family roots go back generations and they have strong existing family ties to and community involvement in the area;
- Policy of denying local people rural dwellings will result in the depopulation of indigenous families with generational connections from Glenasmole and Bohernabreena;
- Extraordinary lengths have gone into the design of the dwelling for it to blend and complement its rural setting;

- If granted, the applicants can expand their vegetable garden and live in a more sustainable way;
- Description of 'garden' does not do plans justice as these are proposals that are complementary and connected to a rural lifestyle.

8.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Rural Housing Policy
- Landscape and Visual Amenity
- Access and Traffic Safety
- Surface Water and Groundwater
- Site Suitability: Foul Drainage and Water Supply – New Issue
- Residential Amenity

8.1. Rural Housing Policy

- 8.1.1. The appeal site is located on lands zoned as High Amenity Dublin Mountains 'HA-DM' with the objective *'To protect and enhance the outstanding natural character of the Dublin Mountains Area'*. In the HA-DM zoning objective matrix, residential use is 'open for consideration' subject to two caveats.
- 8.1.2. Firstly, that the proposal accords with policy for residential development in rural areas and secondly, that the site is below the 350m contour. The appeal site is located below this contour line as indicated on the zoning map and therefore, the relevant consideration is whether the proposal accords with the Planning Authority's rural housing policy.
- 8.1.3. For clarity, while both John Keegan and Laura Nunez are named as the applicants, some documentary evidence such as school records, relates specifically to John Keegan. The use of 'applicant' in this Assessment therefore is intended to be interchangeable and to relate to both persons.

- 8.1.4. In the information submitted to the Planning Authority, the applicant states he is a native of the rural area; currently resides at the family home; is an active member of the community; attended the Glenasmole National School between 1989-1997 and intends to send his son there; has unsuccessfully attempted to purchase other properties in the locality; is being given the site by his mother; has established a vegetable garden; and intends to expand on the activity and live a sustainable lifestyle.
- 8.1.5. In the appeal documentation, supplementary information is provided to address the first refusal reason and demonstrate qualification with the rural housing policy. This includes an increased list of local properties/ sites for sale, with reasons they have not purchased same, supporting correspondence from estate agents; and a more detailed report outlining community ties; vegetable growing for family use; the intention to install rainwater harvesting tanks for use in the garden; and the approach to landscaping for the proposed development.
- 8.1.6. Policy H23 Objective 1 of the Development Plan specifies four criteria which applicants are required to satisfy to qualify for a new rural dwelling in the HA-DM zoning. In respect of the first criterion, I consider that the applicant has adequately demonstrated they are a native of the area through the documentary evidence provided of school records, family and community ties.
- 8.1.7. In respect of the second criterion, the applicant indicates a desire to reside in this locality to be close to family and community, to continue to expand his vegetable garden and live a sustainable lifestyle. No evidence has been provided that the applicant has a source of employment that requires him to reside at this location. This rural area is subject to a high level of protection through the HA-DM zoning and is under strong urban influence for new rural dwellings. While I note the applicant's supporting documentation, I do not consider that the pending ownership of the site, the attempts to purchase other properties, and the plans to continue and expand his vegetable growing constitute a genuine need for housing at this particular area.
- 8.1.8. In respect of the third criterion, the applicant outlines his horticultural interests, vegetable growing activities and choice of sustainable lifestyle. I note that the area

within the red line boundary of the site is stated as measuring just over 1ha, there is no blue line boundary indicative of additional lands being under the control of the applicant, the vegetable growing is of a limited scale for family use, and no information has been provided by the applicant indicating a source of employment associated with the area's amenity potential or farming use. As such, I do not consider that the proposed development is directly related to the area's amenity potential or to its use for agriculture, mountain or hill farming.

8.1.9. In respect of the fourth criterion, the applicant has indicated that rainwater harvesting tanks are proposed to collect water runoff and invites conditions to address any outstanding concern on surface water, screening, landscaping, and use of external materials. As is discussed in the following sections on visual amenity, site suitability and appropriate assessment, I do not consider that the applicant has demonstrated that the development would not prejudice the environmental capacity of the area or that it would be in keeping with the character of the mountain area.

8.1.10. In summary, I concur with the Planning Authority's first refusal reason in so far as the proposed development does not come within the scope of the exceptional circumstances referred to in Policy H23, and the applicant has not satisfactorily met all of the four criteria listed in H23 Objective 1. In my opinion, permitting the proposed development would materially contravene the 'HA-DM' zoning objective.

8.2. Landscape and Visual Amenity

8.2.1. The appeal site is located in the 'Dodder and Glenasmole' landscape character area referenced in the Development Plan. This area has been afforded a high Landscape Value and a high Landscape Sensitivity. Additionally, there are map based 'Protect and Preserve Significant Views' designations on the public roads in the vicinity of the site. Along the Cunard Road Lower to the northeast of the site, the protected view has a southwesterly aspect down towards the site, while on the Allagour Road to the southwest of the site, the protected view has a northeasterly aspect, looking up towards the site.

- 8.2.2. In the information submitted to the Planning Authority, the applicant included a Design Statement and three photomontage viewpoints. In the appeal documentation, the applicant reiterates that the dwelling's design is sensitive to its rural surroundings; that the front view from the road is of a traditional compact cottage and that, in response to the steep sloping nature of the site, the additional footprint of a modern dwelling has been concealed to the rear. The applicant invites conditions in respect of external materials, in particular the metal roofing, screening and landscaping to address any concerns.
- 8.2.3. I consider the single storey scale, simple elevational design and external finishes of the front elevation of the dwelling; the arrangement to share the existing vehicular entrance; and the landscaping details with local species referred to in the appeal documentation to be positive design features.
- 8.2.4. However, the proposed dwelling is two storeys in design, and the side and rear elevations would be visually read as such. Notwithstanding the additional screening information provided in the appeal documentation, I consider that this two storey structure, due to its being adjacent to a cluster of single storey structures, and to its being sited in relatively close proximity to the existing dwelling, when compared to the established pattern of development and the separation distances between other detached rural properties in this location, would not be in keeping with the character of the area.
- 8.2.5. The degree of protection afforded to the appeal site and its surrounding area through the HA-DM zoning, the landscape characterisation, the protect and preserve views designations, and the Glenasmole Valley designated as a pNHA, is reflective of the highly sensitive nature of this mountainous area. In my opinion, the proposed development, due to its height when viewed from the southwest, a protected view, and depth when viewed from the southeast and northeast, a protected view, would be injurious to the amenities of the area and, due to its scale and form cut into a sloping hill-face would be obtrusive in this visually sensitive location. I concur with the Planning Authority's second refusal reason in so far as the proposed development would be contrary to Policies HCL7, HCL9, HCL13, the HA-DM zoning objective applicable to the site, and additionally, to Policy H27.

8.3. Access and Traffic Safety

- 8.3.1. In respect of the access, the applicant intends to share the existing vehicular entrance of the adjacent property. The applicant has indicated sightlines of 80.5m to the north and 85m to the south from the entrance, and submits that there is no additional traffic generated by the proposed development as they presently live in the family home.
- 8.3.2. The Planning Authority's Road section report states that the proposed development is an intensification of traffic on a substandard road which is narrow with no regular passing bays and will lead to a traffic hazard. The third refusal reason additionally cites the creation of ribbon development, problems for drivers passing each other, additional movements reducing the amenity for local residents and endangering public safety. No evidence is presented that the existing entrance proposed to be used is substandard or dangerous.
- 8.3.3. While I note that the public road is narrow, from my site inspection and travelling along the Castlekelly Road, I am of the opinion that there are sufficient sightlines north and south from the entrance, the road is trafficked at relatively slow speeds due to the conditions, and there are relatively frequent opportunities for drivers to pass each other at wider sections of the road, and at agricultural and residential entrances. While the proposed development would give rise to some intensification of use of the entrance, I consider this to be a matter of scale which is acceptably low. I do not concur that the proposed development is in and of itself a traffic hazard or an endangerment to public safety. I do not consider that to be a reasonable refusal reason.

8.4. Surface Water and Groundwater

- 8.4.1. In relation to surface water, the applicant indicates on the application form that the proposed surface water disposal method is a soakpit. However the '*Factual Report on Soakaway Test*' submitted by the applicant states that the soil infiltration rate was 'f' for the excavated trial pit and concludes that the soils are unsuitable for

stormwater disposal as there was no soakage during the test and that an alternative method of stormwater disposal is required.

- 8.4.2. The Planning Authority's Water Services report states no details of how surface water will be attenuated and discharged from the site has been provided and requests further information for same, which are also required to include SuDS measures. In the planner's report, this insufficient information is noted and cited in the fourth refusal reason due to the potential negative impact on the proximate SACs.
- 8.4.3. In the appeal documentation, to address the issue, the applicant states that it is proposed to install a rainwater harvesting system with a capacity of 4,000l, located on site in accordance with the manufacturer's instructions. The rainwater will be used for irrigation purposes associated with the vegetable garden and for domestic use such as for flushing toilets. The manufacturer's specifications indicate that the harvesting tanks are located underground, but the applicant has not indicated the exact location or the depth below ground level to allow consideration of any implications in relation to the proximity to the wastewater treatment plant and to the water table.
- 8.4.4. While the supplemented information is noted, this relates only to rainwater runoff from the proposed dwelling. The applicant has not provided surface water information specific to the proposed development including calculations of runoff, any overflow or storm event information, or a designed engineering system including SuDS installations to ensure a degree of treatment of surface water from the proposed dwelling and hardstanding areas of the site.
- 8.4.5. The site ground conditions have been shown to not be suitable for a stormwater soakaway due to poor drainage; the applicant has not provided a suitably designed system that would safely and adequately attenuate, treat and discharge surface water associated with the proposal; and rainwater harvesting is considered to be a water supply/ surface water control measure, not a SuDS installation. As such, I do not consider that the proposal is sufficient to protect surface and ground water environments and thereby meet the requirements of Development Plan Policy IE2

and Section 11.6.1. I consider this to be an additional refusal reason to those cited by the Planning Authority.

8.5. Site Suitability: Foul Drainage and Water Supply – New Issue

- 8.5.1. In relation to foul drainage, the proposed development includes for a secondary wastewater treatment system with a polishing filter providing tertiary treatment discharging to ground water with a trench invert level at 0.7m below ground level. A Site Characterisation Form and manufacturers' specifications for the plant and filter were submitted to the Planning Authority.
- 8.5.2. The Planning Authority Water Services report refers the application to Irish Water and the EHO for water supply, and to the EHO for foul drainage. I note there are no reports available from the EHO or Irish Water for water supply, nor from the EHO for foul drainage. The planner's report does not refer to site suitability for foul drainage and water supply, or provide an assessment of the information submitted by the applicant.
- 8.5.3. As such, the determination of site suitability is considered to be a new issue. I have assessed the Site Characterisation Form and associated details in accordance with the EPA's '*Code of Practice: Wastewater Treatment and Disposal Systems serving single houses, 2009*'. As confirmed from the GSI records, the appeal site has an aquifer categorisation of poor and vulnerability of high. The subsoil type is of sandy gravelly clay, predominantly grey in colour, with water table at 1.6m, a T-value of 63, a P-value of 53, which I consider indicate ground conditions of poor permeability.
- 8.5.4. In undertaking the review, I have identified inconsistencies in the information provided by the applicant and/ or apparent non-compliance with the requirements of the EPA's Code of Practice. In brief these include: proposing a wastewater treatment system at below ground level apparently not in accordance with the site's P-value; whether bedrock was encountered in the trial pit; the indicated location of the trial pit in the percolation areas; the length of inspection time for the trial pit; the absence of clarity of the percolation test holes locations; the absence of details for the proposed dwelling's private well and soakpit; absence of details for the services

of adjacent properties (likely to include septic tanks, percolation areas, private wells, soakaways); no response to the identification of a public water supply/ group scheme within 1km; the PE stated as 5, with incorrect information on bedroom numbers; and the percolation area size and hydraulic load rate not according with Table 10.1.

8.5.5. In relation to water supply, the applicant indicates in the application form that there will be a new connection. Separately in the Site Characterisation Form, the applicant indicates the water supply is a private well/ borehole. The Water Services section report states that it is unclear where water supply will come from. There is no report from Irish Water and/ or the EHO on the matter. There is no further information in the appeal documentation referring to or clarifying the matter.

8.5.6. If the intention is for a private well/ borehole, I have reviewed the Site Characterisation Form and, as noted above, the location of the proposed well/ borehole is not identified. The details in the Form state that the trial hole is '>40m' from springs/ wells with no further detail or mapping provided identifying these. As such, I do not consider that sufficient information has been provided about water supply or that the applicant has demonstrated that it is possible to provide a safe and compliant water supply source to the proposed dwelling at the site.

8.5.7. I consider the insufficient information outlined above to be relevant and necessary to allow a proper determination on site suitability. While this is a new issue and the Board may recirculate the matter to the applicant, I do not consider that to be appropriate in this instance due to the number of other planning reasons for refusal. In summary, I consider the proposed development does not comply with the EPA's Code of Practice and, therefore, neither with Development Plan Policy H27 nor Section 11.3.4 which includes compliance with the Code of Practice as a requirement for new rural dwellings.

8.6. Residential Amenity

8.6.1. The proposed dwelling, with a stated floor area of 195 sqm and described in the particulars as a 3 no. bedroom house (the ground floor plan does indicate a room as a potential fourth bedroom/ office space), exceeds the minimum Development Plan

standard floor area of 92 sqm. I consider the room sizes and floor areas to be sufficiently consistent with the relevant standards, that the internal layout and arrangement is satisfactory, and that there is no undue overlooking, overbearing or overshadowing of adjacent properties.

- 8.6.2. In respect of private amenity space, the minimum Development Plan standards includes 60 sqm for a 3 no. bedroom house and 70 sqm for a 4 no. bedroom house. In the information submitted to the Planning Authority, the applicant had not stated the quantum for each property, nor how many bedrooms the existing dwelling has.
- 8.6.3. The fifth refusal reason cited by the Planning Authority states that it is not satisfied that the private amenity space to serve the proposed and existing dwellings is of sufficient quality or quantity, and that the proposal is contrary to Policy H13. In the appeal documentation, the applicant indicates that the existing dwelling will have an area of private amenity space in excess of 70 sqm.
- 8.6.4. I have reviewed the proposed site layout plan and particulars, and consider that the proposed and existing dwellings are provided with areas of private amenity space that are in excess of the minimum standard and, notwithstanding the sloping nature of the lands, that would be of sufficient quality and functionality, especially when terraced areas are considered, for the residents. As such, I do not consider that the proposed development is contrary to Policy H13, or that reference to same is a reasonable refusal reason.

9.0 Appropriate Assessment

9.1. European Sites

- 9.1.1. There are three European Sites located in close proximity to the appeal site. These include Glenasmole Valley SAC (site code 001209) which is 500m to the west; Wicklow Mountains SAC (site code 002122) which is 600m to the southwest and 610m to the east; and Wicklow Mountains SPA (site code 004040) which is 1.13km to the southeast.

- 9.1.2. The applicant submitted an Appropriate Assessment Screening Report, dated February 2020, to the Planning Authority. The Screening Report identifies the Sites within 15km of the proposed development; highlights the considerable conservation significance of the Glenasmole Valley SAC, Wicklow Mountains SAC and Wicklow Mountains SPA; and states that the site is not located within, directly connected with or necessary for the management of any Natura 2000 Site.
- 9.1.3. The closest European Site is the Glenasmole Valley SAC, the conservation objective for which is: *‘To maintain or restore the favourable conservation condition of the Annex I habitats(s) and./ or the Annex II species for which the SAC has been selected’*. The qualifying interests of the Site include the habitats of orchid-rich calcareous grassland and petrifying springs, and the species of Molinia meadows.
- 9.1.4. From a review of the proposed development, the Screening Report and other environmental sources, I consider that the potential for impacts on the Wicklow Mountains SAC and the Wicklow Mountains SPA can be reasonably excluded due to the upland locations from the appeal site, the physical separation distances, the absence of hydrological connections, and the short-term characteristics of noise and disturbance impacts.
- 9.1.5. The available information indicates that due to the topography of the area, the groundwater drains in a southwesterly direction from the site downwards to the River Dodder tributary stream, located some 100m to the southwest of the site, which feeds into the River Dodder running through the Glenasmole Valley. I consider that the potential for impact pathways are hydrological links associated with surface water and groundwater discharges from the site to the Glenasmole Valley SAC.

9.2. **Screening Determination**

- 9.2.1. Section 5.1 of the Screening Report identifies a potential source-pathway-receptor link between the proposed development (source), potential discharges of construction-related surface water discharges and wastewater discharges (pathways) to the Glenasmole Valley SAC (receptor). Section 8 of the Report assesses the potential impacts, and for surface and groundwater it concludes that

due to the scale of the proposed development, the lack of a hydrological connection, the dilution provided in the riverine environment, and the distances involved that the risk is minimal and the impact on Natura 2000 sites is imperceptible. A Stage 2 appropriate assessment is not considered necessary.

- 9.2.2. I note that the Screening Report does not identify (in Section 5) the surface water disposal method or assess (in Section 8) the impacts of surface water associated with the operational phase of the proposed development (i.e. occupying the dwelling). Only surface water discharges associated with the limited construction phase, and wastewater discharges from the operational phase of the development are referred to. I note that the Screening Report dates from February 2020, and there is no updated version referring to and assessing the proposed rainwater harvesting tanks included with the appeal documentation.
- 9.2.3. As the amount and manner in which surface water associated with the proposed development is to be attenuated, treated and discharged is unknown, it is my opinion that the potential impact from surface water discharges has not been definitively assessed in the Screening Report. Additionally, there are a number of shortcomings identified with regard to the foul drainage details that imply the proposed development would not be in compliance with the EPA's Code of Practice (an assumption that it would be appears to form the basis of some of the Screening Report conclusions).
- 9.2.4. In summary, I consider that the information in the application and the appeal documentation is not adequate 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 Glenasmole Valley SAC in view of the site's conservation objectives. As such, I consider that the proposed development would be contrary to Policy HCL12.

10.0 Recommendation

I recommend that permission be refused for the proposed development due to the reasons and considerations set out below.

11.0 Reasons and Considerations

1.	<p>The site is located on lands zoned as High Amenity Dublin Mountains 'HA-DM' with the objective '<i>To protect and enhance the outstanding natural character of the Dublin Mountains Area</i>' and associated policy strictly controlling new rural dwellings in the South Dublin Development Plan 2016-2022. The proposed development does not come within the scope of exceptional circumstances as the qualifying criteria for a new rural dwelling at this location have not been met. The proposed development is contrary to Policy H23 and would, therefore, materially contravene the 'HA-DM' zoning objective and be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>The proposed dwelling, by reason of: its two storey design and scale adjacent to modestly scaled single storey structures; its siting on a sloping hill-face at an elevated level; and its dominant form when viewed from protected view designations, is considered to not be consistent with the established pattern of development in the area; to not be in keeping with the natural character of this mountainous area; and to be obtrusive within this highly valued and sensitive landscape. The proposed development is contrary to Policies H27, HCL7, HCL9, HCL13 and the 'HA-DM' zoning objective of the South Dublin Development Plan 2016-2022, and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.</p>
3.	<p>The proposed development does not provide for a properly designed surface water system that has been demonstrated to protect and enhance ground and surface water quality. The proposed development is contrary to Policy IE2 and Section 11.6.1 of the South Dublin Development Plan 2016-2022, and would, therefore, give rise to a</p>

	serious risk of water pollution, be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.
4.	On the basis of the information submitted with the application and appeal, the Board is not satisfied that the subject site is suitable for the safe disposal of foul effluent arising from the proposed development or that a safe water supply source can be provided to serve the proposed dwelling. The proposed development is contrary to Policy H27 and Section 11.3.4 of the South Dublin Development Plan 2016-2022 and would, therefore, give rise to a serious risk of water pollution, be prejudicial to public health, and be contrary to the proper planning and sustainable development of the area.
5.	On the basis of the information submitted with the planning application and appeal, in particular insufficient information relating to surface water and foul drainage, the Board is not satisfied that it is adequate to allow a screening determination to be made in respect of whether the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the Glenasmole Valley SAC in view of the site's conservation objectives. The proposed development is contrary to Policy HCL12 and would, therefore, be contrary to the proper planning and sustainable development of the area.

Phillippa Joyce

Senior Planning Inspector

5th November 2020