



An  
Bord  
Pleanála

## Inspector's Report ABP-308587-20

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| <b>Development</b>                  | Three-bedroom dormer bungalow, new road entrance, proprietary wastewater treatment unit and all associated site works. |
| <b>Location</b>                     | Site to rear of 11 Rathmichael Road with access from Brides Glen Road, Shankill, Dublin 18.                            |
| <b>Planning Authority</b>           | Dún Laoghaire Rathdown County Council  |
| <b>Planning Authority Reg. Ref.</b> | D20A/0581  |
| <b>Applicant(s)</b>                 | Shay and Frances Kelly   |
| <b>Type of Application</b>          | Outline planning permission  |
| <b>Planning Authority Decision</b>  | Refusal  |
| <b>Type of Appeal</b>               | First Party v. Decision  |
| <b>Appellant(s)</b>                 | Shay and Frances Kelly   |
| <b>Observer(s)</b>                  | None.  |
| <b>Date of Site Inspection</b>      | 10 <sup>th</sup> February, 2021  |
| <b>Inspector</b>                    | Robert Speer   |

## 1.0 Site Location and Description

- 1.1. The proposed development site occupies a position between Rathmichael Road (the R116 Regional Road) and Brides Glen Road, in a predominantly rural area of Shankill, Dublin 18, approximately 200m southwest of the M50 Motorway and 400m south of the Cherrywood Strategic Development Zone, with the Loughlinstown River located a short distance to the north on the opposite side of Brides Glen Road. The surrounding area is generally characterised by undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings, although there is a notable concentration of properties within the immediate site surrounds i.e. that area which comprises a triangular wedge of land extending eastwards from the junction of Brides Glen Road with Rathmichael Road c. 300m west of the site.
- 1.2. The site itself has a stated site area of 0.125 hectares, is generally rectangular in shape, and forms part of the rear garden area of No. 11 Rathmichael Road (a single-storey, semi-detached, cottage-style property accessed from Rathmichael Road). It presently comprises an expanse of lawn bounded by well-maintained hedging & fencing which falls gently in a northerly direction, although there is a significant drop in ground level between the site and Brides Glen Road to the north with the result that the proposed dwelling house will occupy an elevated position relative to same. To the immediate west the adjacent lands are occupied by a single-storey bungalow accessed from Brides Glen Road whilst the plot of land to the east remains undeveloped.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the subdivision of the property at No. 11 Rathmichael Road to accommodate the construction of a three-bedroom, dormer bungalow with a stated floor area of 186m<sup>2</sup>, however, as the subject application is for outline permission only no detailed drawings of the proposed dwelling house have been provided.
- 2.2. Access to the site will be obtained via a new entrance arrangement onto Brides Glen Road to the immediate north. It is also proposed to install a proprietary wastewater treatment system which will discharge to a polishing filter whilst a water supply is available via connection to the public mains system.

2.3. On 20<sup>th</sup> March, 2019, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development (Ref. No. V/035/18).

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. On 12<sup>th</sup> October, 2020 the Planning Authority issued a notification of a decision to refuse outline planning permission for the proposed development for the following single reason:

- It is considered that the proposed vehicular entrance does not have adequate sightlines to allow safe entry and exit to and from the site, and therefore would endanger public and pedestrian safety by reason of being a traffic hazard and causing obstruction to other road users. The proposed development would therefore be contrary to Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas (i) General Specifications, of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. Furthermore, the proposed development would, if permitted, set an undesirable precedent for other similar development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### 3.2. Planning Authority Reports

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

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

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

*Environmental Health Officer:* No objection, subject to conditions.

*Municipal Services Dept., Drainage Planning:* No objection, subject to conditions.

*Transportation Planning:* Notes that the proposed development is the same as that previously refused under PA Ref. No. D19A/0243 before reviewing the available

information and asserting that the necessary sightlines from the proposed entrance would be obstructed by the level difference between the road and the adjacent land / embankment to the east, and not just by vegetation. The report subsequently concludes by recommending that outline permission be refused for the following reasons:

- Due to endangerment of public safety as a result of the lack of the required sightline / distance for a vehicular access to the site – i.e. the vehicular access would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, as per Clause 4 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.
- Precedent – i.e. the vehicular access, by itself, or by the precedent that the grant of permission for it would set for other relevant development, would adversely affect the use of Brides Glen Road by road users, as per Clause 7 of the Fourth Schedule (Reasons for the Refusal of Permission which Exclude Compensation) of the Planning and Development Act, 2000.

### 3.3. **Prescribed Bodies**

None.

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

None.

## 4.0 **Planning History**

### 4.1. **On Site:**

PA Ref. No. D19A/0243 / ABP Ref. No. ABP-304790-19. Was refused on appeal on 30<sup>th</sup> September, 2019 refusing Shay & Frances Kelly outline permission for a three-bedroom dormer bungalow, new road entrance, proprietary wastewater treatment unit and all associated site works.

- The Board is not satisfied, on the basis of the documentation provided with the planning application and the appeal, that the proposed development would not endanger public safety by reason of traffic hazard and the obstruction of road users because of the additional traffic turning movements

the development would generate on a road at a point where sightlines are severely restricted. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. D18A/0165. Was refused on 18<sup>th</sup> April, 2018 refusing Shay & Frances Kelly outline planning permission for a three-bedroom dormer bungalow, new road entrance, proprietary wastewater treatment unit and all associated site works:

- Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that the proposed vehicular entrance does not have adequate sightlines to allow safe entry and exit to and from the site, and therefore would endanger public and pedestrian safety by reason of being a traffic hazard and causing obstruction to other road users. Furthermore, allowing this permission would set an unwelcome precedent for similar schemes, contrary to the proper planning and development of the area.

PA Ref. No. D06A/0870. Was refused on 16<sup>th</sup> August, 2006 refusing S. & F. Kelly outline planning permission for a dwelling and proprietary treatment unit.

PA Ref. No. D06A/0099. Was refused on 23<sup>rd</sup> March, 2006 refusing Shay & Frances Kelly outline planning permission for a dwelling and proprietary treatment unit.

#### 4.2. **On Adjacent Sites:**

PA Ref. No. D20A/0128. On 19<sup>th</sup> November, 2020 a split decision was issued to the Estate of Dominic Rennicks on lands at Brides Glen Road, Rathmichael, Dublin 18, as follows:

- To **GRANT** permission to replace a septic tank with a proprietary treatment unit; and
- To **REFUSE** permission to split the public road entrance to form two entrances.
  - It is considered that the proposed additional vehicular entrance does not have adequate sightlines to allow safe entry and exit to and from the site, and therefore would endanger public and pedestrian safety by reason of being a traffic hazard and causing obstruction to other road users. The proposed development would therefore be contrary to

Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas (i) General Specifications, of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. Furthermore, the proposed development would, if permitted, set an undesirable precedent for other similar development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy and Context

### 5.1. National and Regional Policy:

- 5.1.1. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

### 5.2. Development Plan

#### 5.2.1. *Dún Laoghaire Rathdown County Development Plan, 2016-2022:*

##### *Land Use Zoning:*

The proposed development site is located in an area zoned as 'A' with the stated land use zoning objective '*To protect and / or improve residential amenity*'.

*Other Relevant Sections / Policies:*

*Chapter 8: Principles of Development:*

*Section 8.2: Development Management:*

*Section 8.2.3: Residential Development:*

*Section 8.2.3.1: Quality Residential Design*

*Section 8.2.3.2: Quantitative Standards*

*Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas:*

*(vi) Backland Development*

Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing built-up area, the following standards will apply:

- Generally be single storey in height to avoid overlooking.
- Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.
- Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sq.m. each - exclusive of parking - for one/two bedroom units or 60 sq.m. plus for three/four or more bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of

habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

*(vii) Infill:*

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: *Residential Development – General Requirements*

Section 8.2.4.9: *Vehicular Entrances and Hardstanding Areas*

### **5.3. Natural Heritage Designations**

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Loughlinstown Woods Proposed Natural Heritage Area (Site Code: 001211), approximately 1.4km northeast of the site.
- The Dingle Glen Proposed Natural Heritage Area (Site Code: 001207), approximately 1.9km west of the site.
- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 2.6km east-northeast of the site.



- The Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 3.8km south of the site.
- The Ballyman Glen Proposed Natural Heritage Area (Site Code: 000713), approximately 3.8km south of the site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 4.0km east-northeast of the site.
- The Ballybetagh Bog Proposed Natural Heritage Area (Site Code: 001202), approximately 4.0km southwest of the site.
- The Knocksink Woods Special Area of Conservation (Site Code: 000725), approximately 4.7km southwest of the site.
- The Knocksink Woods Proposed Natural Heritage Area (Site Code: 000725), approximately 4.7km southwest of the site.

#### **5.4. EIA Screening**

- 5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of some services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

- The proposed layout shown on Drg. No. 1733-OP-01 details the achievable sightlines of 45m onto Brides Glen Road measured from a point set back 2.4m from the edge of the carriageway whilst further drawings indicate the difference in levels between the proposed plot and the existing roadway. A detailed cross-sectional drawing of the new driveway showing the proposed levels and gradients has also been provided in addition to a report prepared

by Waterman Moylan, Engineering Consultants, which shows that the requisite sightlines can be achieved.

It should also be noted that the proposed works to the embankment bounding the application site to achieve the required sightlines will also serve to provide for improved visibility from the adjoining entrance thereby facilitating safer egress from same.

All of the foregoing indicates that safe access and egress from the site is feasible, and the detailed design of any entrance will be subject to approval as part of any subsequent planning application.

- Having reviewed the inspector's report prepared in respect of ABP Ref. No. ABP-304790-19 (PA Ref. No. D19A/0243), it is submitted that the Board had no issue with the sightlines proposed and the only matter arising was the need for a maintenance regime to ensure that the banks would be kept free from obstruction. Given that the bank to the east is very steep, the only possible obstruction would be caused by vegetation and in this respect it should be noted that the regime for keeping the banks free from excessive vegetative growth was not included in the previous planning application and the applicant had omitted to state that the embankments are cut regularly by the Local Authority.
- Upon further investigation, it can be confirmed that the Local Authority Roads Dept. cut the vegetation along Brides Glen Road twice a year (please refer to the accompanying letter from a landscaping contractor which states that he has been cutting the verges and banks in question twice yearly under contract for the Council since 1993). Accordingly, it is clear that the Local Authority has a regime in place for keeping the banks free of excessive vegetation which would address the concerns of the Board.
- The Local Authority continues to undertake other works to the banks alongside Brides Glen Road with the Roads Dept. having recently reduced the bank edge by 600-700mm to increase the drainage channel along the side of the carriageway (this did not involve any extension of the metalled edge or widening of the roadway).

- Although the landowner's legal title extends to the centre of the roadway, in practice, the Local Authority is in effective control of the public road and the embankment as evidenced by its recent intervention in respect of the drainage channel. Accordingly, it is in a position to ensure that the roadway and embankment are maintained in a fit state consistent with traffic safety (a role which the Council has performed for at least 27 No. years).
- With respect to the recommended reasons for refusal set out in the report of the Transportation Planning Dept., it is submitted that should the Board be satisfied as regards the adequacy of the available sightlines (thereby addressing the first reason), the second reason will no longer be relevant given the extensive authorised development already in place along Brides Glen Road.
- The submitted plans and particulars clearly show that 45m sightlines can be achieved in both directions with no obstruction due to level variation to the east (as has been suggested by the Transportation Planning Dept.).
- With the intention of demonstrating the adequacy of the available sightlines and the current state of the bank after being cut by the Council c. 600-700mm from the metalled edge of the road, the Board is referred to the accompanying results of a site survey undertaken on 3<sup>rd</sup> November, 2020 during which a camera was placed at the driver's eye-level (1.1m over road level and 2.4m inside the road edge) and sightlines of 45m were measured as per Drg. No. 1733-OP-01 (as shown on the corresponding photographs).
- The site visit and approximation of sightlines undertaken by the Transportation Planning Dept. would appear to have been carried out in respect of the previous planning application (PA Ref. No. D19A/0243 / ABP Ref. No. ABP-304790-19), however, following that planning decision, the applicants removed sections of their embankment to approximate the proposed bank profile from which they have been able to establish that the required sightlines are achievable. The measurements recorded by the Transportation Planning Dept. do not have the benefit of the bank cutting / enhancement works undertaken by the applicants and no further on-site survey works have been carried by the Council.

- In response to the concerns that the photographs included in the accompanying report prepared by Waterman Moylan Engineering Consultants (as part of the previous appeal) are not a true representation of the driver's viewpoint as they were taken from a position situated 400mm above eyeline, it should be noted that the Waterman Moylan report stated the following:

*'The sightline downhill to the east was set out with the drivers eye defined by a ranging rod at a level of 1.05m above the level of the carriageway.*

*Similarly, the object location was defined by a second ranging rod at a height of 0.6m above the edge of the carriageway.*

*The 45m long sightline was then photographed. For clarity, the level of the photographer's eyeline was approx. 0.4m above the level of the driver's eye'.*

It is clear from this report that the photograph was taken for clarity purposes only at what must have been a convenient height for the photographer.

Waterman Moylan are clear that both sightlines can be achieved.

- It is the applicant's interpretation of the Board's previous concerns as regards 'obstruction' that there is no other feasible way that the steeply sloping bank to the west could be obstructed other than by vegetation. In this respect, it is reiterated that the Local Authority cuts the banks twice a year which serves to address the issue of 'obstruction'.
- With respect to the sightlines to the west which extend across the setback of the adjoining property, a planning application has been lodged for a new entrance at this location and it will be the responsibility of the Local Authority to ensure that the design of the new access is safe and does not impact on the sightlines from the subject site.
- Although the Transportation Planning Dept. has asserted that it will be unable to cut the vegetation to maintain the sightlines as they extend 1.4m into adjoining lands, it is already the case that the Local Authority cuts the vegetation into and beyond this point. Moreover, the Council has recently cut back the bank by 600-700mm from the metalled edge of the roadway for drainage purposes and thus it would seem to have the necessary rights to undertake such works.

- The suggestion that the road edge has been brought closer to the subject site is rejected. The metalled edge of the roadway remains the same notwithstanding the drainage works.
- On the basis that the necessary sightlines can be achieved, and the banks are maintained free of vegetation by way of twice-yearly cutting, the proposed development will not endanger public safety by reason of traffic hazard or the obstruction of road users.

## 6.2. **Planning Authority Response**

- The Board is referred to the Planner's Report on file and it is further submitted that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## 6.3. **Observations**

None.

## 6.4. **Further Responses**

None.

## 7.0 **Assessment**

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

- The principle of the proposed development
- Traffic implications
- Appropriate assessment

These are assessed as follows:

## 7.2. The Principle of the Proposed Development:

- 7.2.1. With regard to the overall principle of the proposed development, whilst the immediate site surrounds are somewhat peripheral / rural in character and the prevailing pattern of development is generally dominated by one-off dwelling houses, the subject site is located in an area zoned as 'A' in the Dún Laoghaire Rathdown County Development Plan, 2016-2022 with the stated land use zoning objective '*To protect and-or improve residential amenity*' where 'residential' development is 'permitted in principle' in accordance with Table 8.3.2 of that Plan. It is of further relevance to note that the subject site forms part of the rear garden area of an existing dwelling house and that the plot of the adjacent property at No. 12 Rathmichael Road to the immediate west would appear to have been subdivided on two different occasions to allow for the construction of 2 No. additional dwelling houses.
- 7.2.2. Accordingly, the proposed development site could perhaps be considered to comprise a potential backland / infill site situated within an established residential area where certain services are available (i.e. a public watermain) and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties.
- 7.2.3. Therefore, in light of the foregoing, including the land use zoning and the established use of the site for residential purposes, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area

## 7.3. Traffic Implications:

- 7.3.1. The proposed development involves the opening of a new vehicular entrance onto a section of the Brides Glen Road to the immediate north of the application site which is characteristic of the site location within a somewhat rural area. The roadway itself is subject to a speed limit of 50kph and is defined by a continuous white centreline (thereby precluding overtaking) with an absence of any pedestrian footpaths or street lighting. Although the horizontal alignment of the public road is reasonable within the

immediate vicinity of the proposed entrance, there is a notable fall in the carriageway on travelling eastwards past the site with a significant drop in ground level apparent between the site proper and the roadway.

- 7.3.2. The subject application effectively amounts to a repeat of the proposal previously refused outline permission under ABP Ref. No. ABP-304790-19 (PA Ref. No. D19A/0243) and in this regard the key issue in the assessment of the proposed access arrangements remains the availability of adequate sightlines from the new entrance onto the public road. The broader circumstances of the subject proposal are unchanged from those assessed under ABP Ref. No. ABP-304790-19 with the general consensus being that the proposed entrance is to be sited along a section of 'urban road' (derived from the fact that the adjacent lands bounding Rathmichael Road are zoned for residential development) and thus it is appropriate to assess the proposed development in accordance with the provisions of Section 4.4.5: '*Visibility Splays*' of the '*Design Manual for Urban Roads and Streets*'. Similarly, both the applicant and the Planning Authority refer to the requirement to achieve sightlines of 45m (measured from a point set back 2.4m from the near edge of the carriageway) in both directions for vehicles exiting a new access onto a roadway with a speed limit of 50kph pursuant to Table 4.2 of DMURS, however, as before, there is a considerable divergence in opinion as to whether it is actually possible to achieve the aforementioned sight distances.
- 7.3.3. At this point, I would repeat the commentary from my earlier assessment ABP Ref. No. ABP-304790-19 that there is an approximate change in level of 2.5m between the application site proper and the public road at the location of the proposed entrance and that this difference becomes more pronounced on travelling eastwards past the site. This change in level is evidenced by the steep embankment present between the existing line of hedging to the rear of the site and the edge of the carriageway.
- 7.3.4. In an effort to resolve the difficulties which gave rise to the refusal of ABP Ref. No. ABP-304790-19, the subject application has sought to assert that sightlines of 45m are available in both directions from the proposed entrance, however, it is notable that no new information of note has been provided in this regard with the design and siting of the proposed access remaining the same as that previously refused permission. Instead, a reliance has been placed on a report prepared by Waterman

Moylan, Consulting Engineers, which was already given consideration as part of the first party appeal of the earlier refusal of PA Ref. No. D19A/0243 (i.e. ABP Ref. No. ABP-304790-19), and the purportedly established practice of the Local Authority (by way of a private contractor) to cut the verges and banks along Brides Glen Road twice yearly thereby ensuring a satisfactory regime by which to maintain the sightlines from the proposed entrance free from obstruction.

- 7.3.5. Similar to its assessment of PA Ref. No. D19A/0243, in this instance the Planning Authority has determined that inadequate sightlines are available to allow for safe entry and exit to and from the site with the result that the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users. It has been further held that the proposed development will set an undesirable precedent for other similar development. This decision has been informed by the detailed report prepared by the Transportation Planning Dept. wherein a comprehensive analysis of the proposal is set out with reference to the Board's previous refusal of PA Ref. No. D19A/0243 / ABP Ref. No. ABP-304790-19. By way of summation, that report asserts that given the level difference between the road and the adjacent land / embankment, the gradient of the embankment alongside the site frontage and that of the adjacent lands further east, the dense vegetative growth within those areas, the absence of any notable verge alongside the carriageway, and as there is no responsibility on the Roads Authority to carry out any maintenance regime on privately held lands (other than to ensure the public road remains unobstructed by vegetation) so as to provide for unobstructed visibility from a non-existent vehicular entrance, the proposed development would endanger public safety by reason of traffic hazard due to the inadequate sightlines at the site entrance / exit.
- 7.3.6. Having reviewed the available information, and following a site inspection, it is my opinion that the fundamentals of the subject application do not differ significantly from the proposal already refused permission under ABP Ref. No. ABP-304790-19 and that the additional details provided, with specific reference to a reliance on the Roads Authority to cut back roadside vegetation beyond the confines of the application site on a twice yearly basis, fail to satisfactorily resolve the deficiencies in the available sight distance. In support of the foregoing, I would reiterate my previous view that the 45m sightlines referenced in DMURS should be considered a minimum requirement in this instance given the absence of any pedestrian footpaths and



street lighting along this section of road in addition to the traffic speeds observed during my site visits. Furthermore, in order to achieve adequate sight distance for traffic exiting the proposed entrance onto the public road it will be necessary to ensure that the visibility splay remains free from any obstruction and in this regard I would have concerns that given the absence of any notable verge alongside the carriageway, the applicants are effectively relying on that section of the roadside boundary / embankment sited beyond the confines of their property being maintained free from obstruction, with particular reference to that to the east of the site and the need for oncoming westbound traffic to be clearly visible.

7.3.7. By way of further elaboration, it is my opinion that the necessary sightlines from driver's eye level on exiting the proposed entrance in both directions will be obstructed in some part by both the roadside embankment and any vegetative growth atop same. Whilst I note the applicants' submission that the Roads Authority cuts back the roadside verge vegetation twice a year, the extent and responsibility of any such works would seem to be in dispute and it is unclear whether the works referenced (seemingly carried out by a private contractor appointed by the Council) relate to the site location and extend sufficiently far into the embankment as to ensure the availability of the sightlines required. I would also share the view of the Planning Authority that notwithstanding any twice yearly cutting back of vegetation beyond the confines of the application site by the Council, any reliance on same is unlikely to be representative of typical roadside conditions. Furthermore, I am unconvinced that the achievement of the minimum sightlines will not necessitate the excavation or regrading of sections of the actual roadside embankment outside of the applicants' control and thus I would concur with the assessment of the Planning Authority.

7.3.8. It is also of note that the 45m sightline to the west has been shown on the submitted drawings as being measured to the centreline of the roadway (thereby ensuring the visibility of oncoming traffic), however, I would suggest that it would be preferable if the necessary sight distance were achieved to the nearside of the carriageway in order to allow for views of any overtaking vehicles on this downhill stretch of road. The imposition of this requirement would involve the visibility splay extending beyond that property to the immediate west of the application site and I am not satisfied that the necessary unobstructed sight distance is achievable.

- 7.3.9. No details have been submitted of any agreement or assurance from the neighbouring landowners (to both the east and west) that they are amenable to amending and / or maintaining their roadside boundaries to such an extent as to ensure the availability of adequate sightlines from the proposed entrance.
- 7.3.10. Therefore, having regard to the level difference between the roadway and adjacent lands, the extent of the steep embankment alongside the public road, and the reliance on works on lands outside of the applicants control and for which no consent / agreement has been provided, I remain of the view that it has not been demonstrated that the applicants are in a position to achieve adequate sight distance from the proposed entrance. Accordingly, I would concur with the decision of the Planning Authority that the proposed development would serve to endanger public safety by reason of traffic hazard.

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

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

### **8.0 Recommendation**

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

### **9.0 Reasons and Considerations**

1. The Board is not satisfied, on the basis of the documentation provided with the planning application and the appeal, that the proposed development would not endanger public safety by reason of traffic hazard and the obstruction of road users because of the additional traffic turning movements the development would generate on a road at a point where sightlines are

severely restricted. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Robert Speer  
Planning Inspector

3<sup>rd</sup> March, 2021