



An  
Bord  
Pleanála

## Inspector's Report ABP311063-21

<b>Development</b>	Two storey extensions and renovations including a terrace and associated works.
<b>Location</b>	The Leap, Firhouse Road, Templeogue, Dublin16
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD21B/0294.
<b>Applicant(s)</b>	Ryan Hanratty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party V Refusal
<b>Appellant(s)</b>	Ryan Hanratty
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> January 2022
<b>Inspector</b>	Hugh Mannion

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## **1.0 Site Location and Description**

- 1.1. The application site has a stated area of 0.177ha and comprises a triangle of land with its narrow point to the southwest and its wide end boundary to the northeast. The north-western boundary is along the River Dodder while its south-eastern boundary is along Firhouse Road, at Templeogue, Dublin 16. There is a two-storey house at the north-eastern end of the site. There is a vehicular/pedestrian gated access into Firhouse Road. The north-eastern boundary adjoins another house which is one of a line of six houses that back onto the river and ends at the junction of the Firhouse/Ballyroan and Old Bridge roads. The roadside boundary is defined by a concrete wall back planted evergreen trees.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the partial demolition of the existing house on site and the addition of a two storey extension with a connecting corridor at The Leap, Firhouse Road, Templeogue, Dublin 16.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission for 2 reasons.

1. About 10% of the site is un-zoned. About 60% is zoned for residential development and 30% is zoned HA-DV “to protect and enhance the outstanding natural character and amenity of the Dodder Valley”. The alterations and development within the area zoned to protect the Dodder River and the overdevelopment of the adjoining residentially zoned lands does not comply with the zoning objectives for the site and additional Development Plan policies; G2, G3, G4 and G 5. Therefore, the proposed development would materially contravene the County Development Plan and the proper planning and sustainable development of the area.

2. The proposed development would have a detrimental impact on the biodiversity and ecology within the site contrary to policy HCL15 of the County Development Plan.

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

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

The planner's report recommended refusal as set out in the manager's order.

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

#### **3.2.3. Parks Department recommended refusal for serious injury to the biodiversity and ecology of the Dodder River if the proposal was granted permission.**

#### **3.2.4. Irish Water recommended a grant with conditions.**

## **4.0 Planning History**

### **4.1. Permission was refused under SD19A/0079 for demolition of an existing house and construction of a two-storey house because.**

1. The proposed development includes substantial development within the zoned area of the Dodder River, the proposed development would therefore materially contravene the zoning for the site and other development plan objectives and be contrary to the proper planning and sustainable development of the area.
2. The application is deficient in the information in relation to the potential impact on a surface water sewer that traverses the site.

### **4.2. Permission was refused under reference SD17A/0335 for demolition of the existing house on site and construction of a new two storey house because:**

1. The proposed development would require the diversion of a surface water sewer.

2. The application is deficient in the information provided on the potential impacts on the Dodder River valley which is a habitat for the kingfisher and bats both of which are protected species.
  3. The proposed development would require works within the Dodder River valley which is zoned for protection in the County Development Plan. The proposed development would materially contravene the zoning objective in the Plan and other ecological objectives and would be contrary to the proper planning and sustainable development of the area.
  4. The application was not accompanied by a flood risk assessment proposed development and thereby contravenes Green Policy G3 objective 3.
  5. The proposed development would set a precedent for similar undesirable development and be harmful to the residential amenity of the area.
- 4.3. Under SD13A/007 permission was granted for partial change of use to veterinary clinic.
- 4.4. Under SD11A/0145 permission was refused for the subdivision of the site and construction of a new house. The refusal reason referred to the likelihood of flooding on site and thereby contravention of development plan policy.

## **5.0 Policy and Context**

### **5.1. Development Plan**

The South Dublin County Council County Development Plan 2016 to 2022 is the relevant County Development Plan for the area. The site has two zoning objectives.

Zoning Objective 'RES': 'To protect and/or improve residential amenity' and Zoning Objective 'HA - DV': 'To protect and enhance the outstanding character and amenity of the Dodder Valley'.

**Policy G2** in relation to green infrastructure.

It is the policy of the Council to promote and develop a coherent, integrated and evolving Green Infrastructure network in South Dublin County that can connect to the regional network, secure and enhance biodiversity, provide readily accessible parks, open spaces and recreational facilities.

Objective 1: To reduce fragmentation of the Green Infrastructure network and strengthen ecological links between urban areas, Natura 2000 sites, proposed Natural Heritage Areas, parks and open spaces and the wider regional Green Infrastructure network.

G2 Objective 2: To protect and enhance the biodiversity value and ecological function of the Green Infrastructure network.

G2 Objective 3: To restrict development that would fragment or prejudice the Green Infrastructure network.

G2 Objective 4: To repair habitat fragmentation and provide for regeneration of flora and fauna where weaknesses are identified in the network.

G2 Objective 5: To integrate Green Infrastructure as an essential component of all new developments.

G2 Objective 6: To protect and enhance the County's hedgerow network, in particular hedgerows that form townland, parish and barony boundaries, and increase hedgerow coverage using locally native species.

G2 Objective 7: To incorporate items of historical or heritage importance in situ within the Green Infrastructure network as amenity features.

G2 Objective 8: To provide for the incorporation of Eco-ducts and/or Green Bridges at ecologically sensitive locations on the County's road and rail corridors that will facilitate the free movement of people and species through the urban and rural environment.

G2 Objective 9: To preserve, protect and augment trees, groups of trees, woodlands and hedgerows within the County by increasing tree canopy coverage using locally native species and by incorporating them within design proposals and supporting their integration into the Green Infrastructure network.

G2 Objective 10: To promote a network of paths and cycle tracks to enhance accessibility to the Green Infrastructure network, while ensuring that the design and operation of the routes responds to the ecological needs of each site.

G2 Objective 11: To incorporate appropriate elements of Green Infrastructure e.g. new tree planting, grass verges, planters etc. into existing areas of hard

infrastructure wherever possible, thereby integrating these areas of existing urban environment into the overall Green Infrastructure network.

G2 Objective 12: To seek to control and manage non-native invasive species and to develop strategies with relevant stakeholders to assist in the control of these species throughout the County.

G2 Objective 13: To seek to prevent the loss of woodlands, hedgerows, aquatic habitats and wetlands wherever possible including requiring a programme to monitor and restrict the spread of invasive species such as those located along the River Dodder.

## **5.2. Green Policy 3 in relation to watercourses**

It is the policy of the Council to promote the natural, historical and amenity value of the County's watercourses; to address the long-term management and protection of these corridors and to strengthen links at a regional level.

G3 Objective 1: To promote the natural, historical and amenity value of the County's watercourses and address the long-term management and protection of these corridors in the South Dublin Green Infrastructure Strategy.

G3 Objective 2: To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case-by-case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network.

G3 Objective 3: To ensure the protection, improvement or restoration of riverine floodplains and to promote strategic measures to accommodate flooding at appropriate locations, to protect ground and surface water quality and build resilience to climate change.

G3 Objective 4: To uncover existing culverts and restore the watercourse to acceptable ecological standards and for the passage of fish, where possible.

G3 Objective 5: To restrict the encroachment of development on watercourses, and provide for protection measures to watercourses and their banks, including but not limited to: the prevention of pollution of the watercourse, the protection of the riverbank from erosion, the retention and/or provision of wildlife corridors and the protection from light spill in sensitive locations, including during construction of permitted development.

#### **Green policy 4 in relation to Public Open Space and Landscape setting**

It is the policy of the Council to provide a hierarchy of high quality and multi-functional public parks and open spaces.

G4 Objective 1: To support and facilitate the provision of a network of high quality, well located and multifunctional public parks and open spaces throughout the County and to protect and enhance the environmental capacity and ecological function of these spaces.

G4 Objective 2: To connect parks and areas of open space with ecological and recreational corridors to aid the movement of biodiversity and people and to strengthen the overall Green Infrastructure network.

G4 Objective 3: To enhance and diversify the outdoor recreational potential of public open spaces and parks, subject to the protection of the natural environment.

G4 Objective 4: To minimise the environmental impact of external lighting at sensitive locations within the Green Infrastructure network to achieve a sustainable balance between the recreational needs of an area, the safety of walking and cycling routes and the protection of light sensitive species such as bats.

G4 Objective 5: To promote the planting of woodlands, forestry, community gardens, allotments and parkland meadows within the County's open spaces and parks.

G4 Objective 6: To take steps, in conjunction with communities and businesses, to plant existing areas of grassed open space to promote the development of multifunctional amenity areas with enhanced biodiversity value.

G4 Objective 7: To avoid the cumulative fragmentation and loss of ecologically sensitive areas of the Green Infrastructure network to artificial surfaces and to position recreational facilities that incorporate artificial surfaces at appropriate community-based locations.



## **Policy 5 on Sustainable Urban Drainage Systems**

It is the policy of the Council to promote and support the development of Sustainable Urban Drainage Systems (SUDS) in the County and to maximise the amenity and biodiversity value of these systems.

G5 Objective 1: To promote and support the development of Sustainable Urban Drainage Systems (SUDS) at a local, district and county level and to maximise the amenity and biodiversity value of these systems.

G5 Objective 2: To promote the provision of Green Roofs and/or Living Walls in developments where expansive roofs are proposed such as industrial, retail and civic developments.

## **Heritage, Conservation and Landscapes (HCL) Policy 15 Non-Designated Areas**

It is the policy of the Council to protect and promote the conservation of biodiversity outside of designated areas and to ensure that species and habitats that are protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 are adequately protected.

HCL15 Objective 1: To ensure that development does not have a significant adverse impact on rare and threatened species, including those protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992.

HCL15 Objective 2: To ensure that, where evidence of species that are protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 exists, appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.

HCL15 Objective 3: To protect existing trees, hedgerows, and woodlands which are of amenity or biodiversity value and/ or contribute to landscape character and ensure that proper provision is made for their protection and management in accordance with Living with Trees: South Dublin County Council's Tree Management Policy 2015-2020.

## **Heritage, Conservation and Landscapes (HCL) Policy 13 Natural Heritage**

**Areas** It is the policy of the Council to protect the ecological, visual, recreational,

environmental and amenity value of the County's proposed Natural Heritage Areas and associated habitats.

HCL13 Objective 1: To ensure that any proposal for development within or adjacent to a proposed Natural Heritage Area (pNHA) is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the pNHA particularly plant and animal species listed under the Wildlife Acts and the Habitats and Birds Directive including their habitats.

HCL13 Objective 2: To restrict development within a proposed Natural Heritage Area to development that is directly related to the area's amenity potential subject to the protection and enhancement of natural heritage and visual amenities including biodiversity and landscapes

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

The Dodder River Valley is a pNHA to which Policy 13 applies.

### **5.4. EIA Screening**

- 5.5. Having regard to the scale and form of the proposed development and foreseeable emissions therefrom the submission of an EIAR and carrying out of an EIA can be screened out at a preliminary stage.

## **6.0 The Appeal**

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

- The refusal reasons could have been addressed by further information.
- The lower garden adjoins the river, and no works are proposed within this area.
- Recent development of 16 houses at Corrybeg with 2m high rear boundary walls was permitted within 10m of the riverbank.
- The proposed development extension is minimum of 5m from the high amenity zoning, 15m from the river and the two-storey element is further set back.

- There are no objections from neighbours. The planning authority's water services or Irish Water did not recommend refusal. Only the planning authority's public realm section recommended refusal.
- The planning authority's report incorrectly states that the existing house on site is to be demolished when it is proposed for retention. The report has insufficient regard to an increased separation distance from the high amenity zoning of 5m as against 1m in the application under SD19A/0079. A patio/terrace referred to in the report is decades old and exempted development. The report notes a previous reason for refusal referencing surface water drains on site has been settled to the satisfaction of the drainage division.
- No landscaping or engineering works are proposed within the HA-DV zone. The submitted engineering drawings demonstrate that all works take place in the upper garden remote from the river and HA-DV zone area. The extension – located on the residentially zoned lands – is designed to be stepped back from the existing building and will read as one of the elements – the others being the existing house and the connecting corridor.
- The proposed development will not be contrary to Green Policy 2 as mentioned in the first refusal reason as no development is proposed within the sensitive riparian zone. The proposed development does not impact on the watercourse and therefore is not contrary to Green Policy 3 in relation to the protection of the amenity value of the county's watercourses. Green Policy 4 relates to public parks and is not relevant in this case. Green Policy 5 requires compliance with sustainable urban drainage systems. The planning authority's Water Services section reports no objection in relation to any non-compliance with these principles.
- An updated biodiversity report is submitted that demonstrates that no significant impacts will arise for bats, kingfishers or otters.

## **6.2. Planning Authority Response**

- The planner's report has addressed the issues raised in the appeal.

### 6.3. Observations

- None

### 6.4. Further Responses

- None

## 7.0 Assessment

### 7.1. Development Plan Zoning

7.2. The site is divided into two distinct areas. The first is the upper level which accesses Firhouse road at grade, accommodates the existing house and is set out in a lawn area with dog kennels at the end of the garden. The second area – the lower level - is about 3 or 3.5m below the upper level and is set out in lawn with a patio/seating area at its southwestern end. There are a variety of decorative trees on both levels and the division is achieved by the height difference and a natural stone retaining wall between 3m and 3.5m high.

7.3. The site has two land zonings. The upper level is zoned to protect and or improve residential amenity while the lower level is zoned to protect and enhance the outstanding character of the Dodder River valley. The planning authority's first concern is that the proposed development will impact on the lower area zoned for its amenity value related to the Dodder River. The appeal makes the point that there are no works proposed on the area and that therefore, there is no adverse impact on the river and its zoned area.

7.4. Of particular note in this context is the Engineering Site Layout by CHC and Proposed Site Layout by Ferreira Architects. I am satisfied that these drawings confirm that the amended existing house and the new two storey extension are confined to the upper level of the site which is zoned for residential development. Additionally, as noted in the appeal, the new extension has been angled back to maintain a consistent 5m separation distance off the edge of the upper level of the garden. I consider therefore that the proposed development will not unreasonably impact on the lower level of the site zoned to be protected for its amenity value related to the Dodder River valley. The Parks Department recommended refusal for

overdevelopment within lands zoned HA-DV – the Dodder River Valley. This appears to arise from a misunderstanding in relation to the area within the application site proposed for development which is outside the HA-DV zone.

7.5. A further point raised in the first reason for refusal is the planning authority's concern that the amended house and extension will comprise overdevelopment of the residentially zoned portion of the application site. The garden extends 47m to the southwest of the from the wall of the proposed extension. While it tapers to a 5.5m wide point in the southwest corner I am satisfied that this remaining private open space coupled with the unchanged lower-level garden along the river provide adequate setting for the amended house, adequate private amenity space and the proposed extension is situated so as not to negatively impact on any other adjoining/nearby users.

7.6. **Policy Objective G2**

7.7. The first reason for refusal states that the proposed development would materially contravene Policy objective G2. This objective has 13 individual sections which are set out in full above. The objective can be summarised as seeking to protect ecologically sensitive areas and habitats by managing development in them and in their environments to prevent or mitigate such impacts. The River Dodder valley is a designated pNHA and the HV-DV zoning seeks to protect and enhance the character and amenity value of the Dodder River and its valley. In the present case it may be noted that the vicinity of the site and the river has been subject to extensive anthropogenic change over centuries. The existing house and the proposed works and new extension are at a remove from the area zoned for protection and the pNHA and I conclude will not negatively impact on the area zoned for its ecological significance.

7.8. **Policy Objective G3**

7.9. The first reason for refusal states that the proposed development would materially contravene Policy objective G3. This objective has 5 individual sections which are set out in full above, and these are concerned predominantly with the conservation and protection of surface water resources in watercourses. In particular a biodiversity protection zone of 10m should be maintained from the bank of any water course. The appeal makes the point that proposed development maintains that biodiversity

zone and I consider, having regard to the drawings submitted with the application, that this is a fair point. Irish Water had no objection in relation to water supply or effluent treatment and the planning authority's water services section is reported (in the planner's report) as having no objection. I consider that, after construction, there remains ample area within the site for the disposal of surface water. On this basis I conclude that the proposed development will not negatively impact on water quality in the Dodder River.

#### **7.10. Policy Objective G4**

7.11. The first reason for refusal states that the proposed development would materially contravene Policy objective G4. This policy objective is stated in full above and relates the provision of public open space and landscape settings. Having regard to the existing residential use of the site and its location relatively remote from public open spaces I am satisfied that the proposed development will not materially contravene this objective.

#### **7.12. Policy objective G5**

7.13. The first reason for refusal states that the proposed development would materially contravene Policy objective G5. This policy objective is set out in full above and requires the promotion and support of SUDs in developments within the county. As stated previously Irish Water reported no objection and the planner's report reported that the planning authority's water services section reported no objection to the proposed development. Having regard to the remaining undeveloped area within the site I am satisfied that surface water arising within the site may be dealt with satisfactorily within the application site.

7.14. Having regard to the foregoing I conclude that the proposed development does not materially contravene either the HA-DV zoning of the site or the residential zoning of the site and that the Board may grant planning permission on this circumstance.

#### **7.15. Refusal reason 2 - Ecology and Wildlife.**

7.16. The second reason for refusal references Development Plan policy HCL15 in relation to the impact on biodiversity and ecology. Policy HCL15 is as follows:

7.17. *It is the policy of the Council to protect and promote the conservation of biodiversity outside of designated areas and to ensure that species and habitats that are*

*protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 are adequately protected.*

- 7.18. *HCL15 Objective 1: To ensure that development does not have a significant adverse impact on rare and threatened species, including those protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992.*

*HCL15*

- 7.19. *Objective 2: To ensure that, where evidence of species that are protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 exists, appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.*

- 7.20. *HCL15 Objective 3: To protect existing trees, hedgerows, and woodlands which are of amenity or biodiversity value and/ or contribute to landscape character and ensure that proper provision is made for their protection and management in accordance with Living with Trees: South Dublin County Council's Tree Management Policy 2015-2020.*

- 7.21. Policy HCL 15 is concerned with the protection of the ecology and wildlife protected under the Wildlife Acts 1976 and 2000, the Birds Directive and the Habitats Directive. It may be noted that the application site is not within SAC (Habitats Directive) or an SPA (Birds Directive). Furthermore, having regard to the form and scale of the proposed development and the foreseeable emissions therefrom I consider that 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.

- 7.22. In relation to species outside European sites but prospected by other codes the application was accompanied by a biodiversity survey and an amended biodiversity survey was submitted with the appeal and copied for comment to the planning authority. No further comment was received. The survey records the incidences of bay activity, kingfisher sightings and otter activity within the site with an updated survey and commentary from 2021.

- 7.23. In relation to bats the survey concludes that the river/riparian corridor is an important feeding and roosting area for bats but that the proposed development does not impinge on this corridor and that the proposed extension does not require the felling

of any trees. There are no kingfisher nesting sites within 150m of the proposed development and the proposed development will not impact on the river corridor as a feeding area. While there may be some noise or vibration during construction works this is highly unlikely to impact a population of kingfishers. There are no otter setts within the site and because these are generally nocturnal creatures they will not be further disturbed by the proposed development.

7.24. The application site is not within the pNHA.

7.25. The application does not require the felling of any trees, hedgerows, and woodlands which are of amenity or biodiversity value and/ or contribute to landscape character. Having regard to the foregoing I consider that the planning authority's second reason for refusal may be set aside.

7.26. **Other issues.**

7.27. I consider that there are no other material planning issues that require consideration.

7.28. **Appropriate Assessment**

7.29. It is reasonable to conclude that on the basis of the information on the file, the scale and nature of the proposed development and the likely emissions therefrom that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site.

## 8.0 **Recommendation**

8.1. I recommend a grant of permission.

## 9.0 **Reasons and Considerations**

Having regard to the location of the amended house and the proposed domestic extension in an area zoned to protect and/or improve residential amenity in the South Dublin County Council County Development Plan 2016 to 2022, to the separation distance between the amended house and proposed extension and the riverbank of the River Dodder and subject to the conditions set out below it is considered that the proposed development would not seriously impact on the ecological value the River Dodder or the river valley and would, otherwise be in



accordance with the provisions of the County Development Plan and with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Surface water drainage arrangements shall comply with the planning authority's requirements for such services and works.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development (including the exclusion of any construction</p>

	<p>related works from the area of the site zoned HA-DV “to protect and enhance the outstanding natural character and amenity of the Dodder Valley”), hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Hugh Mannion  
Senior Planning Inspector

31<sup>st</sup> January 2022