



An  
Bord  
Pleanála

## Inspector's Report ABP-312799-22.

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<b>Development</b>	Construct 2 houses.
<b>Location</b>	Castleview Park, Monkshill, Rathkeale, Co. Limerick
<b>Planning Authority</b>	Limerick County Council.
<b>Planning Authority Reg. Ref.</b>	21/1252.
<b>Applicant(s)</b>	Margaret O'Brien & Eileen Quilligan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Margaret O'Brien & Eileen Quilligan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23/06/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the Castlevue Park area of the town of Rathkeale. This area, known as Monkshill, lies to the north of the centre of Rathkeale and to the south of the N21 national road. The subject site is located within an existing, and part built residential estate which includes a mix of both detached and semi-detached houses.
- 1.2. The subject site has a stated area of 0.076 hectares and is currently unoccupied, but boundary walls and entrances have been constructed.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the erection of 2 semi-detached domestic dwellings and connections to all existing services on the land, all at Castlevue Park, Monks Hill, Rathkeale, Co. Limerick.
- 2.2. The application included the following documents:
  - Plans and particulars
  - Completed planning application form
  - Part V Exemption Certificate.
- 2.2.1. The proposed development comprises the construction to a pair of semi-detached houses on the site which will extend to 2 storeys and three bedrooms. The houses will be finished in a mix of smooth plaster and a native stone façade. The windows will be triple glazed uPVC and the roof will comprise a blue/black Thrutone slate. The houses will occupy a floor area of 142m<sup>2</sup> and the overall site covers 0.076ha. It is proposed that the houses will connect to public services in the area and the site is accessed over the existing estate road.
- 2.2.2. Following the request for further information, the applicant did not submit any alternative proposals to deal with surface water arising at the site. The applicant advises that the use of soakpits will be temporary as there is currently work taking place to make connections to the public storm water sewer. All necessary pipework to make the connection as soon as it is available will be installed.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following reason:

Having regard to the information submitted with the application where the application has not demonstrated an alternative proposal other than soakpits for the disposal of surface water and in the absence of a comprehensive proposal for surface water disposal for the overall zoned lands, the proposed development does not comply with the requirements of the Limerick County Development Plan specifically, Objective IN O41: Sustainable Urban Drainage Systems. Therefore, it is considered that the proposed development is contrary to the proper planning and sustainable development of the area.

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

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

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history and the County Development Plan, and local area plan policies and objectives. The report also includes an Appropriate Assessment Screening assessment.

The Planning Report notes the concerns of the Roads Section in terms of the proposals for dealing with surface water arising at the site and concludes that further information is required. Further information is also required with regard to the IW comments.

Following the submission of the response to the FI request, the applicant sought permission to temporarily use the soakpits while works take place to make connections to the public storm water sewer. The applicant also makes reference to the grants of permission for similar proposals in the vicinity of the site. The final PO report concludes that the temporary use of soakpits is not considered appropriate

due to the location of the site within an urban area which has the potential for future development to take place. The report recommends that permission be refused.

The SEP has supported this recommendation and the planning report formed the basis of the Planning Authority's decision to refuse planning permission.

### 3.2.2. Other Technical Reports

**Roads EE:** The report notes the proposal to dispose of surface water generated within the site through the use of soakways. This is not deemed appropriate due to the location of the site within an urban area which has the potential for further development in the future. The original developer of the housing estate was conditioned to provide a viable surface water network outfalling to the River Deel some years ago, which has not been put in place. The use of soakaways should not be allowed as an alternative.

Following the submission of the response to the FI request, no further report was submitted.

**Environmental Services:** Condition recommended to be included should planning permission be granted with regard to the requirements of a site-specific waste management plan.

Following the submission of the response to the FI request, no further report was submitted.

### 3.2.3. Prescribed Bodies

**Mid-West NRDO:** No observations.

**TII:** No observations.

**Irish Water:** Further information required to assess the feasibility of connections to public infrastructure.

I note a second submission from IW which repeats the requirement for further information.

Following the submission of the response to the FI request, no further report was submitted.

### 3.2.4. Third Party Submissions

None.

## 4.0 Planning History

In terms of the subject site, two previous applications for similar developments to that currently sought were withdrawn prior to any decision issuing.

The following is the relevant planning history pertaining to the wider estate site:

**PA ref: 02/1811:** Permission granted for the construction of 20 detached dwellings, and 24 semi-detached dwellings, a service road with all ancillary services, and OPP for 3 detached dwellings.

**PA ref: 09/1425:** Permission granted for retention and completion of houses 17, 18, 35, 36, 37 and 38 presently under construction and all associated site works.

**ABP ref: PL13.243306 (PA ref: 13/708):** Permission refused on appeal for the construction of 2 houses on a site to the east of the access road to the currently proposed development site. The Board refused the proposal for the following 2 reasons:

1. The proposed development site is zoned as 'Residential Service Sites' in the Rathkeale Local Area Plan, 2012, the objective of which is to provide for an alternative to sporadic development in the open countryside by allowing individuals who wish to build and design their own houses to do so in an urban setting on the edge of town on suitable lands with established services. This objective is considered reasonable. The proposed development, which represents a conventional suburban estate-type housing development, would conflict with this zoning and would therefore contravene materially the development objective as set out in the local area plan. The proposed development, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site in an area zoned for residential serviced sites in the Rathkeale Local Area Plan, 2012, its relationship with adjoining undeveloped lands, and the requirement of Objective H3

whereby a masterplan / design brief is to be prepared for all serviced and low density sites which will show the overall layout, infrastructure, services and landscaping for the whole of the serviced site development, it is considered that, in the absence of an masterplan that has been formally agreed with the planning authority for the entirety of the undeveloped lands at this location, the proposed development would constitute a piecemeal and uncoordinated developmental approach to the development of the wider zoned lands, and would be premature pending the preparation and approval of such a masterplan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**ABP ref: ABP-300839-18 (PA ref: 17/27):** Permission granted following a first party appeal for the construction of 2 houses on a site to the north-west of the access road to the currently proposed development site. The Board will note that the PA had refused permission for 3 reasons, including a reason on the basis that the applicant had not demonstrated that the site is suitable for surface water disposal via soak pits.

## 5.0 Policy and Context

### 5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. Relevant policies of the NPF seek to support the creation of high-quality urban places and to increase residential densities in appropriate locations. The following objectives are relevant in this regard:
- Policy Objective 4

- Policy Objective 6
- Policy Objective 10
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

## 5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments. The guidelines state that car parking standards need to be set at realistic levels, having regard, *inter alia*, to proximity to public transport.
- 5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.
- 5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to a number of safeguards.

## 5.3. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

## 5.4. Development Plan

5.4.1. The Limerick County Development Plan 2010-2016 as extended and Rathkeale Local Area Plan 2012-2018 as extended are the relevant policy documents pertaining to the subject site.

5.4.2. Chapter 3 of the CDP deals with urban and rural settlement strategy and Section 3.2 deals with the settlement strategy while Section 3.4 presents details of the overall settlement strategy policies and objectives. The following policies and objectives are considered relevant:

- **Policy SS P8:** It is policy of the Council to encourage and facilitate where possible, the sustainable, balanced development of existing settlements along the strategic national roads and rail corridors. In this regard the Council will seek to ensure that sufficient land is zoned within these settlements so that they will act as the primary focus for investment in infrastructure, housing, transport, employment, education, shopping, health facilities and community.
- **Objective SS O11:** Zoning of land for tier 3 settlements: To support this policy it is an objective of the Council to:
  - a) Monitor and review the local area plans for Abbeyfeale, Adare, Askeaton, Castleconnell, Croom, Patrickswell and Rathkeale in accordance with the relevant legislation.
  - b) Zone land within the town of Foynes.
  - c) To address the unique development patterns within the town of Rathkeale and stem the existing decline.
  - d) Prepare a village design statement or local development framework plan for Foynes, subject to available resources.

5.4.3. Chapter 4 of the CDP deals with Housing with sections dealing with general housing policies, density and design of residential development.

5.4.4. Chapter 8 deals with Transport and Infrastructure and Objective IN O40 is relevant in that it deals with Sustainable Urban Drainage Systems and states as follows:



It is the objective of the Council to reduce insofar as possible, the rate and quantity of surface water run-off from all new developments. Developments should where possible, incorporate sustainable urban drainage systems (SuDS).

- 5.4.5. Chapter 10 of the Plan deals with Development Management Standards, with Section 10.5 relating to residential development and Table 10.1 sets out the Design Guidelines for Urban Residential Development and states that 'Adequate provision for the disposal of surface water separate from the foul sewerage system is required. Surface water drainage systems should be designed on SUDS principles'.

## **5.5. Rathkeale Local Area Plan 2012 - 2018 (as extended)**

- 5.5.1. The subject site is located within the existing settlement boundaries of Rathkeale. Rathkeale is designated as a Tier 3 town in the Settlement Strategy for Co. Limerick and Objectives SS01-08 apply. Tier 3 towns are generally located on major transport corridors and are promoted as secondary development centres for significant future development.
- 5.5.2. The subject site is primarily zoned Existing Residential, where the purpose of this zoning is:

To ensure that new development is compatible with adjacent uses and protect the amenity of existing residential areas.

The Board will also note that part of the site located to the east, is included in the R1 Residential Development Area - Phase 2 zoning where the LAP advises;

While housing is the primary use, recreation, education, crèche/playschool, clinic/surgery uses, sheltered housing and small corner shops are envisaged, subject to the preservation of neighbouring residential amenity.

- 5.5.3. Chapter 7 of the LAP deals with Infrastructure, with Section 7.4 dealing with surface water drainage. Objective IN 3: Surface Water Disposal is relevant, and states as follows:

It is the objective of the council to:

- (a) Require that all applications for development demonstrate that appropriate Sustainable Urban Drainage Systems (SuDS) are examined and where feasible provided.
- (b) Require the submission of surface water design calculations establishing the suitability of drainage between the site and a suitable outfall in order to establish whether the existing surface water drainage system can accommodate an additional discharge generated by a proposed development(s).
- (c) Require applicants to investigate the potential for the provision of porous surfaces where car parking and hard landscaping is proposed.
- (d) Protect the surface water resources of the plan area, and in individual planning applications request the provision of sediment and grease traps, and pollution control measures where deemed necessary.

## **5.6. Draft Limerick City & County Development Plan 2022-2028**

5.6.1. The Board will note that the Limerick City and County Council have progressed to Stage 3 of the Development Plan Making process, a Section 12(8) Chief Executive's Report has been prepared and issued to the Elected Members of Limerick City and County Council on 10 May 2022, regarding the submissions/ observations made in relation to the proposed Amendments to the Draft Limerick Development Plan 2022 - 2028 and associated reports. This Chief Executive's Report and all proposed amendments to the Draft Plan was considered by the Elected Members at a Special Meeting of Limerick City and County Council on the 17<sup>th</sup> June 2022, where the Elected Members made the Plan. The Plan will come into effect on the 29<sup>th</sup> of July 2022.

5.6.2. The 2022 CDP identifies the subject site as being within the settlement boundary of the Level 3 town of Rathkeale and the Plan, Objective SS O9 indicates that:

It is an objective of the Council to monitor and review existing Local Area Plans and prepare new Local Area Plans for the following settlements: Abbeyfeale, Caherconlish, Castleconnell, Kilmallock and Rathkeale to align with the Limerick Development Plan on completion and to consolidate the

growth of these towns and focus policy on ensuring these towns become more self-sufficient, in terms of job creation and services.

## **5.7. Natural Heritage Designations**

5.7.1. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Askeaton Fen Complex (Site Code: 002279) which is located approximately 3.4km to the north. In addition to the above, the following sites lie within 15km of the site:

- The Curraghchase Woods SAC (Site Code: 000174) lies approximately 7km to the north-east.
- The Barrigone SAC (Site Code: 000432) lies approximately 9.8km to the north-west.
- The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 9.9km to the west.
- The Barrigone SAC (Site Code: 000432) lies approximately 10.6km to the north-west.
- The Lower River Shannon SAC (Site Code: 002165) lies approximately 10.6km to the east and 11.1km to the north-west.
- The River Shannon & River Fergus Estuaries SPA (Site Code: 004077) lies approximately 11.1km to the north-west.

## **5.8. EIA Screening**

5.8.1. The application was submitted to the Board after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

5.8.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units

- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

5.8.3. The proposed development comprises the construction of 2 houses in Rathkeale, Co. Limerick, on a site of 0.076ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.8.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.8.1. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Kinsale,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

6.1.1. This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The grounds of appeal are summarised as follows:

- The decision of the PA is incorrect, and the development proposed is entirely in accordance with the proper planning and sustainable development of the area with due regard to the provisions of the Rathkeale LAP.
- There were no third-party objections
- The development as proposed with the use of soakpits as per designs submitted with application sufficiently shows that the use of soakpits can accommodate the surface water from each site.
- The proposals are reasonable and appropriate for the site.
- The other developments in Castleview Park have been granted with temporary soakpits until the proposed connection to the public storm water drain is connected.

It is requested that permission be granted.

### 6.2. Planning Authority Response

None.

### 6.3. Observations

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the development the subject of this application and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Water Services & Site Suitability Issues
3. Other Issues
4. Appropriate Assessment

### 7.1. Principle of the Development:

- 7.1.1. The subject site lies within the settlement boundary of the Level 3 town of Rathkeale in Co. Limerick. The site comprises part of a wider site for which planning permission has been granted for a residential estate, whereby 17 units have already been developed. The existing houses follow a similar design and include both detached and semi-detached houses. In terms of the principle of the development, I would note that national policy seeks to increase residential densities in appropriate locations and that this objective is provided for in the current CDP and LAP. The Rathkeale Local Area Plan zones the lands 'Existing Residential'. The proposed development comprises the construction of a pair of semi-detached houses with the houses connecting to public services in the area.
- 7.1.2. Having regard to the layout of the site, I am satisfied that the proposal provides for adequate private open space for each unit and that the overall scale and design of the houses submitted reflect the general pattern of development and the character of existing houses in the vicinity. As such, I consider that the principle of the development is both reasonable and acceptable as proposed.

## 7.2. Water Services & Site Suitability Issues

- 7.2.1. In terms of site suitability, the Board will note that the sole reason for refusal by Limerick City & County Council relates to the servicing of the site, and the matter of how surface water will be dealt with. The Board will note that the two houses will connect to the existing public water and wastewater services in the vicinity. I note that Irish Water has indicated that connections can be facilitated, and that capacity exists within the network to accommodate the two houses, subject to upgrades.
- 7.2.2. IW advise that the existing public watermain is located approximately 270m from the site and that the existing public sewer network is located approximately 450m from the site. It is noted that the applicant proposes to connect to existing infrastructure within the estate which has not been taken in charge and as such, consent to connect to such infrastructure is required. In such circumstances where the applicant proposes to connect to existing infrastructure, which is private and not taken in charge, vesting of same to Irish Water shall be required.
- 7.2.3. With regard to the relevant consents, I would refer the Board to the provisions of Section 34(13) of the Planning and Development Act, 2000 as amended, which advises that a person is not entitled solely by reason of a permission granted to carry out any development. As such, I am satisfied that any grant of permission for the proposed development would not, in itself, confer any right over private property or remove the need for the applicant to secure such permissions.
- 7.2.4. In terms of surface water management at the proposed development, I note that the applicant proposes to use soak pits temporarily, until such time as the connection to the public storm water sewer is made. It is indicated that the applicant will install all the necessary pipework to make the connection when it is available. The Board will also note that there is precedent for allowing such measures within this area under previous permissions. In terms of the information submitted, I would accept the intention of the applicant to construction the soakaways in accordance with the recommendations of BRE 365.
- 7.2.5. The Board will note that the Roads Engineer of Limerick City & County Council have advised that the use of soakways is not an appropriate alternative solution given the location of the site within an urban area which has the potential for further development in the future. I also note that the grant of permission for the original

estate, PA Ref. No. 02/1811 refers, included a condition which required the developer to provide a viable surface water network which has not been put in place. While the current applicant advises that works are currently taking place to make the connections to the public storm water sewer, no documentary evidence to substantiate this claim has been submitted. There was no evidence of works being carried out on the day of my inspection.

7.2.6. While I fully accept the concerns of the Planning Authority in this regard, and I would accept that the efforts to progress the provision of a viable surface water network to serve the wider estate as conditioned in the original grant of planning permission, PA Ref. No. 02/1811 refers, have not progressed in the intervening years, given the limited nature and scale of the current proposed development, it might reasonably be considered that the current proposal is acceptable. However, I do acknowledge that there is a potential for piecemeal development continuing within this wider estate area whereby permission is granted for one or two dwellings at a time, but no overall solution is brought forward to address the storm water infrastructure deficit which clearly exists. To date, 17 houses have been constructed within this estate and the surface water drainage network deficit remains, 20 years after the original grant of planning permission for the estate. The majority of the house sites within the estate have been covered in full with concrete.

7.2.7. I note the comments in the first party appeal whereby the writer considers that the current applicants are being dealt with unfairly 'as the rest of the development at Castlevue Park has been granted planning permission with the use of soakpits as a temporary measure until the connection to the public storm water drain is connected'. I would not consider this to be a fair reflection of the situation on the ground. The original planning permission for the wider estate required the provision of a viable surface water network. This was not complied with and what has occurred in the interim is that indications were given that works were to commence on providing the infrastructure, but there was no follow through in the past 20 years. Therefore, it can only be concluded that there is a significant deficit in the infrastructure required to construct the proposed development.

7.2.8. I further note the requirements of the Limerick CDP as it relates to the surface water disposal, and the lack of proposals for the wider development area. In this regard, and while I have no objection in principle to the proposed development or the design



of the houses, I consider that in the absence of an appropriate surface water drainage network as required in the parent permission for the overall Castleview Park development site, the development the subject of this appeal is premature. The continued use of temporary soakpits to address the issue of surface water management, and the lack of any clear details relating to the provision of the surface water drainage network compounds this concern, and potentially impacts the development potential of adjacent Phase 2 Residential Development Area zoned lands to the north and east. As such, I concur with the Planning Authority decision to refuse permission for the development.

### **7.3. Other Issues**

#### **7.3.1. Roads & Traffic**

The proposed development is to be accessed over the existing estate road, permitted as part of the parent permission for the overall site, PA ref: 02/1811 refers. I do not consider that the development, if permitted is likely to give rise to any concerns relating to roads and traffic and I am satisfied that the immediate road network in the vicinity of the site has adequate capacity to accommodate the traffic associated with two houses without any undue impacts for existing road users.

#### **7.3.2. Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

### **7.4. Appropriate Assessment**

#### **Introduction:**

- 7.4.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The site is not located within any designated site. The closest Natura 2000 site is the Sovereign Islands SPA (Site Code: 004124) which is located approximately 5km to the south-east.

7.4.2. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

7.4.3. Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

**Consultations:**

7.4.4. With regard to consultations, the Board will note that no issues relating to AA were raised by any party.

**Screening for Appropriate Assessment**

7.4.5. The proposed development will connect to the public water services in the town of Rathkeale. I note no objections from IW in this regard.

7.4.6. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application and did not submit a Natura Impact Statement. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 7 Natura 2000 Sites occurring within a 15km radius of the site, the closest one being the Askeaton Fen Complex (Site Code: 002279) which is located approximately 3.4km to the north. In addition to the above, the following sites lie within 15km of the site:

- The Curraghchase Woods SAC (Site Code: 000174) lies approximately 7km to the north-east.
- The Barrigone SAC (Site Code: 000432) lies approximately 9.8km to the north-west.
- The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 9.9km to the west.
- The Barrigone SAC (Site Code: 000432) lies approximately 10.6km to the north-west.

- The Lower River Shannon SAC (Site Code: 002165) lies approximately 10.6km to the east and 11.1km to the north-west.
- The River Shannon & River Fergus Estuaries SPA (Site Code: 004077) lies approximately 11.1km to the north-west.

7.4.7. I am satisfied that all of the above sites can be screened out in the first instance, as they are all located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the above mentioned sites is reasonably foreseeable and that they can all be excluded at the preliminary stage for the following reasons:

- Sites are located entirely outside the EU site and therefore there is no potential for direct effects.
- No habitat loss arising from the proposed development.
- No disturbance to species.
- No pathways for direct or indirect effects.

#### **In Combination / Cumulative Effects**

7.4.8. Given the nature of the proposed development, being the construction of two houses on an urban and serviced site within the built-up area of Rathkeale, I consider that any potential for in-combination effects on water quality of any of the Natura 2000 sites can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in any of the identified Natura 2000 sites via rivers and other surface water features are also subject to AA.

#### **Conclusion on Stage 1 Screening:**

7.4.9. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or

projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## 8.0 Recommendation

- 8.1.1. Having regard to the information submitted in support of the appeal, together with all other matters and details on the file, I recommend that permission be refused for the development for the following reason.

## 9.0 Reasons and Considerations

1. Notwithstanding the location of the subject site within the town of Rathkeale, or the planning history associated with the wider residential area, the Board is not satisfied that the applicant has adequately demonstrated appropriate proposals for the disposal of surface water associated with the development and it is concluded that there is a significant deficit in the infrastructure required to service the proposed development.

In the absence of an appropriate and viable surface water drainage network as required in the parent permission for the overall Castleview Park development site, the development is premature, would contravene a stated objective of the current Rathkeale Local Area Plan 2012 (as extended) Objective IN 3: Surface Water Disposal and the Limerick County Development Plan 2010-2016 (as extended) Objective IN O40: Sustainable Urban Drainage Systems refer, and would be contrary to the proper planning and sustainable development of the area.