



An
Bord
Pleanála

Inspector's Report

ABP-314526-22

Development	8 no. dwellinghouses and associated site works.
Location	Radharc na Coille, Rathcoole, Mallow, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	216188.
Applicant(s)	Bernard Hennessy.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Bernard Hennessy.
Observer(s)	None.
Date of Site Inspection	7 th November 2023.
Inspector	Daire McDevitt.

1.0 Site Location and Description

The site, with a stated area of 1.39 hectares is located within the development boundary of Rathcoole Village in north county Cork.

The site is located on the northern edge of an existing housing scheme (Radharc na Coille) which comprises 49 no. dwellings, mixture of detached and semi-detached two storey houses. The site refers to open space associated with the housing scheme. Access is via Radharc na Coille which is accessed off the L5216. Radharc na Coille is bounded to the east and west by land identified as Green infrastructure (sports grounds and GAA facilities) in the current County Development Plan. The Blackwater River is located c.1km to the north and the Rathcoole River is c.387m to the east. To the south is the rail line.

The village is referred to as Rathcool, Rathcoole and Rathcoolee in the documentation on file.

2.0 Proposed Development

Permission is sought for 8 no. dwelling houses and associated site works.

Further Information submitted on the 11th July 2022 to address 16 no. items.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:

- 1. The proposed development would be located within Rathcool village. It has been determined that the proposed development should be subject to an appropriate assessment as it has been concluded that the proposed development has the potential to give adverse effects on the integrity of the Blackwater River (Cork/Waterford) Special Area of Conservation and to interfere with the achievement of the Conservation Objectives that apply to this SAC. Of particular concern is the risk of impact to water quality during operational phase of the proposal due to discharges from the public WwTP*

and the receiving body is considered 'At Risk' with insufficient flow within the waterbody to assimilate the existing discharge and achieve 'High Status' which is required to protect all qualifying interest species of the SAC potentially impacted by the proposal. Therefore, the granting of permission for this development would be contrary to policy objective BE15-2 of the County Development Plan 2022 and the requirements of the Habitats Directive and contrary to policy objective WM11-1 of the County Development Plan and the requirements of the Water Framework Directive. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner Report (10th October 2021).

Points of note are summarised as follows:

- Residential development is acceptable in principle at this location.
- Planning history noted. Existing scheme of 49 dwellings completed. The proposed dwellings would be located on open space associated with 00/7688.
- Concerns raised in relation to the overall layout, lack of Design Statement, private amenity space, scale and density (at the lower end).
- Determined a FRA not required.
- Further details required to complete AA.
- Inputs from other internal departments assisted in shaping the FI request.

Recommendation for Further information request on 16 items relating to:

1. Related to inter alia: Site layout, open space, Design statement, private amenity space, housing mix and density.
2. Review design approach to integrate with existing scheme (scale, proportions, heights, design and external finishes).

3. Compliance with internal space standard set out in Quality Housing for Sustainable Communities Guidelines.
4. Consult with IW and submit detail of pre-connection enquiries regarding public water/wastewater infrastructure. Confirmation regarding TIC of pumping station.
5. Traffic Impact Assessment.
6. Traffic Calming Measures.
7. Review of access arrangements to dwelling from the west.
8. Visitor parking.
9. Details of footpaths and roadway.
10. Details of pedestrian crossing.
11. Construction Management Plan.
12. Distance between dwellings and dividing walls.
13. Location of gullies.
14. Surface water management system. SuDS.
15. Landscape Plan.
16. Public Lighting.

Planner Report - Further Information Assessment (8th August 2022)

The Planners Report states “The Application was deferred for Clarification of Further Information on 1st October 2021”.

NOTE: I wish to highlight to the Board that correspondence dated 1st October 2021 refers to the ‘Further Information Request’ not a ‘Clarification of Further Information request’

The Report has mislabelled items of FI. 16 items as set out above were requested by Cork County Council on 1st October 2021.

As assessment of the applicant’s response to the further information (received 11th July 2022, following a 3 month agreed extension(correspondence on file)) is set out in the Planners Report. Points of Note include:

Comments on items requested by individual departments are set out.

- The Cork County Development Plan 2022 came into effect on the 6th June 2022.
- Reference to Objective DB-01.
- Responses to most items of the further information are considered acceptable.
- Issues highlighted by area engineer are noted (connection and pumping station).
- The Ecologist highlighted concerns relating to the requirement for appropriate assessment and the absence of one and recommended that permission be refused.

The Planner Report concluded that there are outstanding issues to be addressed. However, it is not feasible to defer the application for clarification and A recommendation to refuse permission was made and endorsed by the planning authority.

3.2.2. Other Technical Reports

Area Engineer (28/09/2021 & 5/08/22). Concerns raised in the initial report which informed items in the further information request. Second Report following submission of the FI raised no objections from a surface water or roads perspective subject to appropriate conditions.

Water Services Department (3/09/21 & 5/08/22). Concerns raised in the initial report which informed items in the further information request. Second Report recommended that additional information be sought relating to proof of IW permission to connect and TIC of pumping station.

Ecology Report (28/09/21 & 5/08/22). Concerns raised in the initial report which informed items in the further information request. Second Report following submission of the FI recommended that permission be refused as concerns raised following consultation with the Environment Section that the proposed development could generate a potential significant effect on the integrity of the Blackwater River SAC arising from the operation of the WWTP. Appropriate Assessment is required

and as it is not feasible to defer the application in respect of the appropriate assessment required, permission should be refused in accordance with policy objective BE 15-2 Protect Sites, habitats and species of the County Development Plan 2022.

Environment Report (6/09/21 & 5/08/22). Concerns raised in the initial report, relating to the feasibility of connection to water services and seeking confirmation that the pumping station will be TIC by Irish Water, which informed items in the further information request. Second Report following submission of the FI raised no objections subject to appropriate conditions.

Public Lighting Report (31/08/22 & 19/07/22). Concerns raised in the initial report which informed items in the further information request. Second Report following submission of the FI raised no objections subject to appropriate conditions.

Estates Primary Report (3/09/21). No objection subject to conditions.

Liaison Officer Report (5/08/22). No comment to make.

3.3. Prescribed Bodies

Irish Water (16/09/21 & 4/08/22). Concerns raised in the initial report which informed items in the further information request relating to the feasibility of connection to public water/wastewater infrastructure. Second Report following submission of the FI raised no objections subject to appropriate conditions.

Iarnrod Eireann (26/08/21). No objection in principle.

3.4. Third Party Observations

12 submissions were received by the planning authority at application stage These included 11 Submissions received from residents of Radharc na Coille estate and one submission with no postal address.

The issue raised broadly related to: services, public open space, maintenance landscaping, traffic, amenity, Blackwater River SAC, flooding, health and safety, residential amenity and procedural issues relating to the application.

No submissions received following the submission of the Further Information.

4.0 Planning History

PA Ref. 00/7688 refers to a grant of permission to Donal McCarthy for 49 dwellinghouses.

5.0 Policy Context

5.1. National

National Planning Framework (2018)

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place.

Relevant Policy Objectives include:

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

Climate Action Plan

Seeks to achieve a 51% reduction in overall greenhouse gas emissions by 2030 and to reach net-zero emissions no later than by 2050. Action 78 seeks to 'Implement the National Planning Framework' and the following 'Steps Necessary for Delivery' are:

'Develop indicators and timelines to achieve NPF targets for residential development on vacant/redevelopment sites to minimise sprawl'.

River Basin Management Plan 2018-2021

The Plan sets out the actions that Ireland will take to improve water quality and achieve 'good' ecological status in water bodies (rivers, lakes, estuaries and coastal waters) by 2027. Ireland is required to produce a river basin management plan under the Water Framework Directive (WFD).

The Plan provides a more coordinated framework for improving the quality of our waters — to protect public health, the environment, water amenities and to sustain water-intensive industries, including agri-food and tourism, particularly in rural Ireland.

River Basin Management Plan 2022-2027.

Public Consultation on the draft River Basin Management Plan 2022-2027 closed 31 March 2022.

Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual'), 2009

- Design Manual for Urban Roads and Streets, 2013 (as updated regarding Covid measures)
- The Planning System and Flood Risk Management Guidelines, 2008.
- Guidance on Appropriate Assessment for Planning Authorities 2009 (updated 2010).

5.2 Regional

Southern Region - Regional Spatial and Economic Strategy 2020

A key component of the RSES is to strengthen the settlement structure of the Region and to capitalise on the individual and collective strengths of the three cities (Cork, Limerick and Waterford), the metropolitan areas, and a strong network of towns, villages and rural communities.

5.3 Local

Cork County Development Plan 2022-2028.

Volume One - Main Policy Material

Policy Objective of note referred to in the reason for refusal:

Objective BE 15-2: Protect sites, habitats and species:

a) Protect all natural heritage sites which are designated or proposed for designation under European legislation, National legislation and International Agreements.

Maintain and where possible enhance appropriate ecological linkages between these. This includes Special Areas of Conservation, Special Protection Areas, Marine Protected Areas, Natural Heritage Areas, proposed Natural Heritage Areas, Statutory Nature Reserves, Refuges for Fauna and Ramsar Sites. These sites are listed in Volume 2 of the Plan.

b) Provide protection to species listed in the Flora Protection Order 2015, to Annexes of the Habitats and Birds Directives, and to animal species protected under the Wildlife Acts in accordance with relevant legal requirements. These species are listed in Volume 2 of the Plan.

c) Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This includes rivers, lakes, streams and ponds, peatland and other wetland habitats,

woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands as well as coastal and marine habitats. It particularly includes habitats of special conservation significance in Cork as listed in Volume 2 of the Plan.

d) Recognise the value of protecting geological heritage sites of local and national interest, as they become notified to the local authority, and protect them from inappropriate development.

e) Encourage, pursuant to Article 10 of the Habitats Directive, the protection and enhancement of features of the landscape, such as traditional field boundaries, important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species.

Objective WM 11-1: EU Water Framework Directive and the River Basin Management Plan

a) Protect and improve the County's water resources and ensure that development permitted meets the requirements of the River Basin Management Plan and does not contravene the objectives of the EU Water Framework Directive.

b) Promote compliance with the River Basin Management Plan and associated environmental standards and objectives set out in the European Communities (Environmental Objectives) Surface Water Regulations, 2009 and the European Communities (Environmental Objectives) Groundwater Regulations, 2010, to prevent deterioration; restore good status; reduce chemical pollution, and achieve water related protected areas objectives in rivers, lakes, groundwater, estuaries and coastal waters (as applicable).

c) Secure the objectives and facilitate the implementation of the associated Programme of Measures of the River Basin Management Plan 2018-2021 and any successor plan for ground, surface, estuarine, coastal and transitional waters in the Plan area as part of the implementation of the EU Water Framework Directive.

d) Support an integrated and collaborative approach to local catchment management in order to assist in the implementation of the River Basin Management Plan.

e) In acknowledgement of the sustained pressures on ecological status being experienced in Blue Dot catchment waterbodies, additional measures, as deemed

necessary to protect and restore these waterbodies to high status may be required for development permitted in such catchments. Measures may include, but are not limited to, a water management plan (including the construction phase), tertiary treatment and appropriate SUDs measures.

f) Support the prioritisation of the provision of water services infrastructure in:

- Metropolitan Cork, the Key Towns and Main Towns to complement the overall strategy for economic and population growth while ensuring appropriate protection of the environment.
- All settlements where services are not meeting current needs, are failing to meet the requirements of the Urban Wastewater Treatment Directive, and where these deficiencies are
 - interfering with Councils ability to meet the requirements of the Water Framework Directive; or
 - having negative impacts on Natura 2000 sites; and

g) Development may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation, the Water Framework Directive and the requirements of the Habitats Directive.

Objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design

- a) Require that all new developments incorporate sustainable drainage systems (SuDS). Efforts should be taken to limit the extent of hard surfacing and impermeable paving.
- b) Encourage the application of a Water Sensitive Urban Design approach in the design of new development or other urban interventions. Opportunities to contribute to, protect or re-enforce existing green infrastructure corridors or assets should be maximised.
- c) Optimise and maximise the application of Sustainable Urban Drainage Systems (SuDS) to mitigate flood risk, enhance biodiversity, protect and enhance visual and recreational amenity; all in the most innovative and creative manner appropriate and in accordance with best practices. Proposals should demonstrate that due consideration has been given to nature based solutions in the first instance in arriving at the preferred SuDS solution for any development.

- d) Provide adequate storm water infrastructure in order to accommodate the planned levels of growth expected for the County.
- e) Where surface water from a development is discharging to a waterbody, appropriate pollution control measures (e.g, hydrocarbon interceptors, silt traps) should be implemented.
- f) The capacity and efficiency of the national road network drainage regimes will be safeguarded for national road drainage purposes.

Volume Three - North Cork. Section 2.36 Rathcoole

Vision 2.36.1

The vision for Rathcoole over the lifetime of the plan is to encourage modest residential development in keeping with the scale of the village while protecting the amenities of its setting adjacent to the Blackwater SAC.

Development Boundary Objective for Rathcoole

Objective No. DB-01

- a) Within the development boundary of Rathcoole encourage the development of up to 10 dwellings during the plan period.
- b) The boundary of the village is adjacent to the River Blackwater Special Area of Conservation. Development will only be permitted where it is shown that it is compatible with the requirements of the Habitats Directive and the protection of this site.
- c) Appropriate and sustainable water and waste water infrastructure, that secures the objectives of the Water Framework Directive and the protection of the Blackwater Special Area of Conservation must be available to cater for the development of the settlement.
- d) Part of the settlements at risk of flooding. See Chapter 11 Water Management.

5.4 Natural Heritage Designations

The site is not located within or immediately adjacent to a designated site.

The closest designated site is the River Blackwater (Cork/Waterford SAC (site code 002170) located c.387m to the east and c.1km to the north.

5.5 EIA Screening

See Completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

A first party appeal has been lodged by Bernard Hennessy against the recommended decision by Cork County Council to refuse permission. In an attempt to address the reason for refusal the ground of appeal includes a Natura Impact Statement, this has been advertised and public notices erected on site to inform the public accordingly.

6.1 Grounds of Appeal

The grounds of appeal are summarised as follows:

- The appellant has engaged with Cork County Council since 2019 and at no stage prior to receiving the reason for refusal was the issue of appropriate assessment flagged.
- It is submitted that Cork County Council expressed interest in acquiring the units.
- Notwithstanding an NIS has been prepared and submitted to address the sole reason for refusal.
- Letter from IW received confirming that a connection to the public sewer is feasible and acceptable and submitted with the FI to the Council.
- There is a significant demand for housing in the area.

- The proposed design of the 8 houses completes the symmetry of the development while also preserving a large green area in the centre.

Documentation enclosed with the grounds of appeal:

- Copy of confirmation of Feasibility from Irish Water.
- Copy of Notification of Decision from Cork County Council to Refuse planning permission.
- Natura impact Statement for the proposed development.

6.2 Planning Authority Response

Received 29th September 2002. Point of note include:

- As it was not feasible to defer the application in respect of the concerns raised about the WWTP discharge and the feasibility of connection, the Ecologist recommended that the application should be refused in accordance with objective BE 15-2: Protect Sites, habitats and species' of the County Development Plan 2022.

6.3 Observations

None.

6.4 Further Responses

None.

7.0 Assessment

Between the initial application being lodged with Cork County Council and the date it issued its decision, there was a change in Development Plans. The Cork County Development Plan 2022-2028 came into effect in June 2022 and therefore was in

effect on the date the planning authority made its decision. Notwithstanding. I address the principle of development in section 7.1 below.

The grounds of appeal are against the reason for refusal of permission which is set out below.

“The proposed development would be located within Rathcool village. It has been determined that the proposed development should be subject to an appropriate assessment as it has been concluded that the proposed development has the potential to give adverse effects on the integrity of the Blackwater River (Cork/Waterford) Special Area of Conservation and to interfere with the achievement of the Conservation Objectives that apply to this SAC. Of particular concern is the risk of impact to water quality during operational phase of the proposal due to discharges from the public WwTP and the receiving body is considered ‘At Risk’ with insufficient flow within the waterbody to assimilate the existing discharge and achieve ‘High Status’ which is required to protect all qualifying interest species of the SAC potentially impacted by the proposal. Therefore, the granting of permission for this development would be contrary to policy objective BE15-2 of the County Development Plan 2022 and the requirements of the Habitats Directive and contrary to policy objective WM11-1 of the County Development Plan and the requirements of the Water Framework Directive. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.”

The planning authority has included two separate issues, water framework directive and appropriate assessment in the one reason for refusal. I note that the grounds of appeal have focused on the issue of appropriate assessment and include a Natura Impact Statement which I address in section 7.3 below. I address compliance with policy objective WM11-1 of the County Development Plan in section 7.2 below.

NOTE: Documentation on file refers to Irish Water, since January 2023 it has been rebranded as Uisce Eireann.

Having examined the application details and all other documentation on file, including submissions received in relation to the application and appeal, and having

regard to the relevant national/regional and local policies and guidance, I consider that the main issues in this appeal are as follows:

- Context & Principle of Development
- Compliance with Objective WM 11-1
- Appropriate Assessment .

7.1 Context & Principle of Development

7.1.2 Context

The planning authority was broadly satisfied with the overall quality of the proposed development, ie 8 houses within an existing residential development.

The proposal for 8 houses beings the overall Radharc na Coille housing development from 49 houses to 57. I have reviewed the application documentation and information submitted with the appeal, the submissions by the local authority, the third party submission at application stage and I broadly concur the design and layout is acceptable. It finishes out the existing housing scheme and would not detract from the amenities of future residential or that or existing residents at Radharc Na Coille. The proposal which is the subject of this appeal completes the estate, I am of the view that proposal coupled with the existing and proposed development results in an acceptable mix of units and sizes is achieved within Radhac Na Coille as a whole. Issues raised by third parties have been addressed at application stage by the planning authority. No third party appeals or observations were received by An Bord Pleanála in respect of the current appeal before the Board.

Having regard to the foregoing I do no propose to carry out a de-novo assessment of the proposed development and my assessment shall focus on the reason for refusal and the appellant's attempt to address this.

7.1.2 Principle of Development

The lands are located within the development boundary of Rathcoole as identified in the in the Cork County Development Plan 2022-2028 Development Boundary Objective for Rathcoole Objective No. DB-01 sets out that a) within the development boundary of Rathcoole encourage the development of up to 10 dwellings during the

plan period. b) The boundary of the village is adjacent to the River Blackwater Special Area of Conservation. Development will only be permitted where it is shown that it is compatible with the requirements of the Habitats Directive and the protection of this site. c) Appropriate and sustainable water and wastewater infrastructure, that secures the objectives of the Water Framework Directive and the protection of the Blackwater Special Area of Conservation must be available to cater for the development of the settlement and d) Part of the settlements at risk of flooding.

The vision for Rathcoole over the lifetime of the plan is to encourage modest residential development in keeping with the scale of the village while protecting the amenities of its setting adjacent to the Blackwater SAC.

The proposed development, comprising 8 no. dwelling houses, is acceptable in principle on the subject site subject compliance with the relevant development management criteria, national and regional guidance. The site is not located on lands identified as Flood Zone A or B.

7.2 Compliance with Objective WM 11-1

The Council's reason for refusal highlighted that of particular concern is the risk of impact to water quality during operational phase of the proposal due to discharges from the public WWTP and the receiving body is considered 'At Risk' with insufficient flow within the waterbody to assimilate the existing discharge and achieve 'High Status' which is required to protect all qualifying interest species of the SAC potentially impacted by the proposal. Therefore, the granting of permission for this development would be contrary to policy objective WM 11-1 Protected Sites, habitats and species of the County Development Plan and the requirements of the Water Framework Directive. Potential impact on the QI of the SAC is assessed in section 7.3 under appropriate assessment.

The Water Framework Directive (WFD) is the main water policy instrument in operation across the member states of the European Union. The Directive, which came into force in 2000, aims to maintain and restore all surface waters and groundwaters to at least good water status by 2027 at the latest.

The EPA Set out that surface water classification range from 'High' when the water is unpolluted, to 'Bad' is when the water is highly polluted. Ground waters fall into two quality classes (status) under the WFD: 'Good' and 'Poor'.

The WFD assists in highlighting what actions are needed to achieve Good status or to protect Good or High status where it already exists. It also helps us identify what actions need to be taken. River can be restored to Good and High status by using targeted actions and measures to reduce the impact of human activities.

I refer the Board to internal reports in file from Cork County Council's Water Services Section and Environment Section respectively which concluded following a review of the further information submitted at application stage that there was no objection to the proposed development subject to appropriate conditions. I wish to highlight to the Board the local authority Environmental Section concluded in its report dated 08/08/2022 that 'the deficiency of SUDS measures are acceptable given it is within an existing small development'.

Surface water is proposed to connect to the public stormwater system. Drainage measures include onsite attenuation and a hydrocarbon bypass interceptor. I consider the proposal acceptable. The local authority water services section and environment section raised no objection subject to conditions.

No issues relating to connection to the public water network were raised by with the local authority or Uisce Eireann.

Uisce Eireann Wastewater Treatment Capacity Register dated June 2023 (accessed 9th November 2023) notes that Rathcoole WWTP has a green status, i.e that there is capacity available. Wastewater discharge from the WWTP are required to comply with its Discharge License (A0328) issued by the EPA in 2011.

Uisce Eireann (Irish Water) issued a Confirmation of Feasibility under Ref. CDS21008443 (submitted with Further Information response to Cork County Council) dated 31 January 2022 for the proposed development on the basis that a

water connection is feasible without infrastructure upgrade and a wastewater connection is feasible subject to upgrade/new pumping station.

The foul sewer water will be connected to an existing public network system. As such there is an indirect connection to the Rathcoole River, a tributary of the Blackwater River via the foul networks via Rathcoole Wastewater Treatment Plant (WWTP). Using the source-pathway-receptor model, foul waters from the proposed development will ultimately drain to the Blackwater River, located to the north and the Rathcoole River to the east, both of which are part of the Blackwater River catchment.

CCC Environmental Officer noted that Rathcoole WWTP discharges in the Blackwater (Munster)_080. WFD Code IE_SW_18B021000. The current status is 'good'. The waterbody has a 'High Status' Objective and raised concern that the waterbody is at risk of failing to achieve the WFD Objective but raised no objection to the proposed Development subject to conditions.

The EPA catchments (accessed 9th November 2023) has assigned a live status of 'High' as a receiving surface waterbody the Rathcoole River and assigned 'Good' status as an inputting surface water body (IE_SE_18R010400) to the Blackwater.

On balance I consider that the increase in discharge loading arising from the proposed development will be minimal and that the impact of the discharge from the Rathcoole WWTP will satisfy Surface Water Regulations 2009 standards.

Based on the information available I have no evidence that the proposed development for 8 houses which would have a minimal impact on the discharge from the Rathcoole wastewater treatment plant, would result in adverse impacts on the Blackwater River waterbody and in this regard contribute to its risk of failing to achieve the WFD Objective. Having regard to the foregoing I am of the view that the proposed development is broadly in compliance with Objective WM-11-1 of the Cork County Development Plan 2022-2028 and in this regard considered acceptable.

7.3 Appropriate Assessment

7.3.1 Context

The reason for refusal sets out that "... it has been determined that the proposed development should be subject to an appropriate assessment as it has been concluded that the proposed development has the potential to give adverse effects on the integrity of the Blackwater River (Cork/Waterford) Special Area of Conservation and to interfere with the achievement of the Conservation Objectives that apply to this SAC. Of particular concern is the risk of impact to water quality during operational phase of the proposal due to discharges from the public WWTP and the receiving body is considered 'At Risk' with insufficient flow within the waterbody to assimilate the existing discharge and achieve 'High Status' which is required to protect all qualifying interest species of the SAC potentially impacted by the proposal. Therefore, the granting of permission for this development would be contrary to policy objective BE15-2 of the County Development Plan 2022 and the requirements of the Habitats Directive.

7.3.2 Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Rathcoole, a residential development comprising 8 dwellinghouses, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.3.3 Introduction

The Natura Impact Statement (NIS) dated August 2022 submitted with the appeal includes reference to stage 1 screening that was carried out. The applicant's Stage 1 Appropriate Assessment screening applied the precautionary principle and concluded that the proposed Development could not rule out conclusively water quality impacts, direct and indirect, from the project on the Natura 2000 site the Blackwater River (Cork/Waterford) SAC (site code: 002170) which is located within 400m of the site. And therefore concluded the need to progress to Stage 2 and prepare a Natura Impact Statement (NIS).

Included with the application, amongst other reports is a Construction Environmental Management Plan.

As will be seen in the following sections, I am satisfied that there is a low likelihood of significant levels of any polluting substances getting into the system. I am cognisant of the fact that the Rathcoole River forms part of the Blackwater River (Cork/Waterford) SAC which is the closest designated site to this development site and there is a potential indirect pathway from the site to this designated site.

Measures in relation to the protection of the Rathcoole River, a tributary of the Blackwater River a local level have been detailed in the submitted documents and I refer the Board to same. While the applicant's *"Under Article 6(3) of the Habitats Directive Appropriate Assessment Natura Impact Statement"* document described these as mitigation measures for the purposes of appropriate assessment, they are not. Notwithstanding the reference to 'mitigation' measures I have examined these documents and I do not consider that they are mitigation measures for the purposes of appropriate assessment. In my view the word has been used incorrectly. They constitute the standards established approach to surface water drainage for construction works on sites. Their implementation would be necessary for a housing development on any greenfield site regardless of the proximity or connections to any

Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on a greenfield site whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy in preventing the risk of a deterioration in the quality of water downstream of construction works has been demonstrated by long usage. Therefore, the proposed development would be not likely to have a significant effect the quality of the waters in the Natura 2000 sites downstream of the application site. Any potential impact would only arise if the proposed development were carried out in an incompetent manner or with reckless disregard to environmental obligations that arise in any urban area whether or not it is connected to a Natura 2000 site. I am of the opinion that it is very clear that any measures proposed are not needed to avoid, prevent or reduce significant effects on nearby European sites, in particular the Blackwater River (Cork/Waterford) SAC and that no mitigation has been put forward in this regard.

While I acknowledge that the purpose of these measures may have no connection with a designated site, it could be argued that it does not exclude the possibility that there may be more than one purpose for the measures and there may be some incidental protection of the designated sites. In this regard, I am satisfied that the intention of the measures in question, are such, that they were adopted not for the purpose of avoiding or reducing the potential impact on the relevant designated sites but were adopted solely and exclusively for some other purpose, namely protecting the quality of water in the Rathcoole River itself at a local level. I am of the opinion that many of the measures are essentially best-practice construction measures and their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.

7.3.4 Screening for Appropriate Assessment (Stage 1)

7.3.5 Description of Development

A description of the project is provided in section 1.1 and 4.3 of the NIS. I refer the Board to section 2 of this report.

7.3.6 Description of Site Characteristics

The site has a stated area of c 1.39 hectares in the village of Rathcoole in north County Cork. The site is currently open space associated with the Radharc na Coille housing scheme which is completed and occupied. There is a pumping station to the north which serves Radharc na Coille. There are no defined boundaries between the site and existing housing scheme. The proposed development of 8 houses would complete the scheme at this location. Hedgerows and trees form the northern boundary with agricultural lands bounding the site to the north. The Rathcoole River, a tributary of the Blackwater River, which forms part of the Blackwater River SAC is c. 387m to the east of the site, separated from it by a row of houses (Part of Radharc na Coille), public road, GAA pitches and single houses on the opposite side of the road and agricultural lands.

Surface water will discharge via public stormwater system to the closest watercourse which is the Rathcoole River c.387m to the east (which is part of the Blackwater River (Cork/Waterford) SAC which in turn feeds into the Blackwater River c.1km the north and associated SAC which is separated from the site by agricultural lands and Rathcoole Aerodrome. Drainage measures on site include on site attenuation and hydrocarbon bypass interceptor. Foul water to be directed to the public sewer system.

7.3.7 Relevant prescribed bodies consulted

The submitted NIS does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information.

At application stage the application was referred to the relevant prescribed bodies by Cork County Council. In response to the referrals, no submissions in relation to appropriate assessment were received from the prescribed bodies. The appeal has not been referred to prescribed bodies.

7.3.8 Test of likely significant effect

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Habitat loss/ fragmentation/alteration
- Habitat degradation as a result of hydrological impacts.
- Disturbance and displacement impacts on QI/SCI
- Changes in water quality and resource

An AA Screening and NIS is submitted with the application. No Natura 2000 sites have a direct hydrological connection to the proposed development site. However, potential pathways /connections between the application site and the River Blackwater (Cork/Waterford) SAC were identified via surface water to the Rathcoole River, a tributary of the Blackwater River and via the public stormwater/surface system and via wastewater discharge from the Rathcoole wastewater treatment plant.

7.3.9 Designated sites within Zone of Influence

The appellant's screening noted that given the proximity to the Rathcoole River which is a tributary of the Blackwater River it was determined that the zone of influence is likely to extend beyond the recommended 15km and continue downstream until the river reaches the coast. In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the site to a European Site. The site is not within or directly adjacent to any European Site. The site is open space associated with Radharc na Coille housing scheme bounded by the existing residential development with playing fields to the west and agricultural lands to the north. The site has been the subject of site works in the past with a pump house, curbing and open space associated with Radharc na Coille developed to date. The nearest surface water feature is the Rathcoole River c.387m to the east of the site separated from the site by playing fields, houses, public road and agricultural lands.

There is no direct a hydrological link with the Blackwater River (Cork/Waterford) SAC via surface water runoff into the Rathcoole river from the site via land drains and existing land buffer and development. Therefore there is no potential for pollutants mobilised into surface water runoff from the development in its construction phase to reach the SAC through surface drain/stormwater system or the potential to adversely affect the European site and the QI habitats and species for which this site.

The applicant's screening concluded that the Blackwater River catchment represents the largest Freshwater Peral Mussel catchment in Ireland. And that siltation or direct loss of habitat could have adverse effects on this species. Discharge from the wwtp could affect water quality. Therefore was screened in for potential likely significant effects.

The applicant's AA screening report concluded that there is one European site with qualifying interests which is potentially linked to the proposed development is identified as being potentially affected by the development arising from drainage from the site, surface water, during construction and occupation, and the potential for the transportation of construction and operation phase surface water containing silt/sediments, hydrocarbons and other pollutants, and/or invasive species to the downstream designated sites.

The application site is not located within or adjacent to any European site. A potential indirect hydrological connection arises in the form of surface water run-off and storm overflows to the Blackwater River via the Rathcoole River at construction and operational stages. The Blackwater River runs through the Blackwater Callows SPA, (site code 004094) however, this sites would be at greater remove (c.43km) and subject to further dilution effects within the river such that significant effects from the proposed development are not considered likely. Similarly, I note that a number of the sites within a 15km radius identified which include Mullaghanish to Musheramore Mountains SPA (site code 004162) located c.9km to the south are at a significant remove from the application site and in respect of which there is no pathway or connection which could give rise to significant effects on the conservation objectives of those sites.

The foul sewer water will be connected to an existing public network system. As such there is an indirect connection to the Blackwater River (Cork/Waterford) SAC via the foul networks via the Rathcoole wastewater treatment plant (WWTP). Using the source-pathway-receptor model, foul waters from the proposed development will ultimately drain to the Blackwater River, located to the east and north of the proposed development site, and therefore may indirectly have an impact. Therefore, the European site with qualifying interests, which is potentially linked to the proposed development is the Blackwater River (Cork/Waterford) SAC (site code 002170).

Given the scale of the proposed development, the lack of a direct hydrological connection, the dilution provided and the distances involved other sites along the Blackwater River are excluded from further consideration this screening. I do not consider that any other European sites fall within the zone of influence of the project based on a combination of factors including the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, aided in part by the applicant's Appropriate Assessment and Natura impact Statement the conservation objectives of Natura 2000 sites, the lack of suitable habitat for qualifying interests, as well as by the information on file and I have also visited the site.

Having regard to the above, I consider the following Natura 2000 site to be within the Zone of Influence is the Blackwater River (Cork/Waterford) SAC (site code 002170). In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the site to a European Site.

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location Relative to the Proposed Development Site
<p>Blackwater River (Cork/Waterford) SAC (site code 002170)</p> <p>Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Perennial vegetation of stony banks [1220], Salicornia and other annuals colonising mud and sand [1310], Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330], Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410], Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260], Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0], Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0], <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029], <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092], <i>Petromyzon marinus</i> (Sea Lamprey) [1095], <i>Lampetra planeri</i> (Brook Lamprey) [1096], <i>Lampetra fluviatilis</i> (River Lamprey) [1099], <i>Alosa fallax fallax</i> (Twaite Shad) [1103], <i>Salmo salar</i> (Salmon) [1106], <i>Lutra lutra</i> (Otter) [1355], <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p> <p><u>Conservation Objectives:</u></p> <ul style="list-style-type: none"> • To restore the favourable conservation condition of the Freshwater Pearl Mussel. • To maintain the favourable conservation condition of White-clawed Crayfish. • To restore the favourable conservation condition of Sea Lamprey. • To maintain the favourable conservation condition of Brook Lamprey. • To restore the favourable conservation condition of Twaite Shad. • To maintain the favourable conservation condition of Atlantic Salmon. • To maintain the favourable conservation condition of Estuaries. • To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide. • To maintain the favourable conservation condition of Perennial vegetation of stony banks • To maintain the favourable conservation condition of Salicornia and other annuals colonizing mud and sand. • To restore the favourable conservation condition of Atlantic salt meadows. • To restore the favourable conservation condition of Otter. 	<p>c. 0.4km to the east.</p>

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| <ul style="list-style-type: none"> • To maintain the favourable conservation condition of Mediterranean salt meadows. • To maintain the favourable conservation condition of Killarney Fern. • To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation. • To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum. • To restore the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae). | |
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I do not consider that any other European sites fall within the zone of influence of the project based on a combination of factors including the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site. See also the conservation objectives of Natura 2000 sites, the lack of suitable habitat for qualifying interests, as well as by the information on file, including observations made by prescribed bodies at application stage and I have also visited the site.

7.3.10 Assessment of Likely Significant Effects on Designated Sites

Potential indirect effects on the Blackwater River (Cork/Waterford) SAC (Site Code 002170) relate to:

- Potential impact from operational wastewater discharges from the Rathcoole WWTP to the Blackwater River which if not properly treated could cause eutrophication of the receiving waterbody.
- Potential impact from overland flows and surface water discharge via the Rathcoole River and Blackwater River during construction and operational phases.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, there is potential for significant effects upon this Natura 2000 site arising from the operational phase of the proposed development. The following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Possibility that the release of sediment and pollutants from the proposed development into the streams and transported downstream could have detrimental impacts on the water quality of the Rathcoole River, a tributary of the Blackwater River and therefore have a detrimental impact on the QIs for River Blackwater (Cork/Waterford) SAC, in particular the Freshwater Pearl Mussel, Sea lamprey, Brook lamprey, River lamprey and White Clawed crayfish.
- Surface water emissions associated with the proposed works could impact on aquatic habitats via increased silt levels in surface water runoff and resuspension of riverbed sediments and inadvertent spillages of hydrocarbons from fuel and hydraulic fluid.
- Inadvertent spillages of hydrocarbon and/or chemical substances during construction could introduce toxic chemical into aquatic environment via direct means, surface water runoff or groundwater contamination.
- Hydrocarbon contamination could potentially impact on water quality and thus could impact on aquatic qualifying species for the Blackwater River (Cork/Waterford) SAC namely Freshwater Pearl Mussel, Brook Lamprey and River Lamprey. There could also be impacts on salmonids which are important component of the Freshwater Pearl Mussel lifecycle and on European Eel which is now considered endangered.

Given the scale of the development, the lack of direct hydrological connection and the presence of existing structures buffering the site from the SAC contamination from run off during construction is not likely.

Wastewater from the development will be connected to the public sewer and ultimately directed to the Rathcoole WWTP, Discharges from the WWTP have the potential to affect water quality.

The Rathcoole River is c.387m to the east of the site. The principal pathway between the site and the Rathcoole River Tolka is via the storm water drains that discharge into the river. Potential contaminants generated during the construction phase include concrete, hydrocarbons and soil sediment. The potential for likely impact on the closest European site is minimal having regard to the distance and existing buffer.

With regard to habitat loss and fragmentation, given the site is not located within or adjoining any European sites, there is no risk of direct habitat loss impacts and there is no potential for habitat fragmentation.

There is no direct pathway via groundwater, air or land to Natura 2000 sites and the nearest European site is c.387m from the proposed development to the east and c.1km to the north.

There are no drains or watercourses within or in the vicinity of the site. There are no direct hydrological links to the Rathcoole River. I consider given the location of the site vis a vis the Rathcoole River to the east of the Blackwater river to the north (1km), there is no potential for pollution to enter the watercourses, across the terrestrial buffer via overland flow from the surface water runoff or storm overflows to the river during construction and operational phases.

The habitats within the site are not of value for qualifying species of the Natura 2000 sites. The site itself does not provide suitable habitats/environments these species. No ex-situ impacts on qualifying species are therefore considered likely.

In relation to the operational phase of the development, I note surface water from the proposed development will discharge to the public storm water system.

It is a policy of Cork County Council Objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design to require that all new developments incorporate sustainable drainage systems (SuDS). As such, the design entails a suite of SuDS measures that will be incorporated into the proposed development. This will reduce the flow rate of surface water run-off and largely eliminate the risk of pollution to waterbodies arising from surface water run-off during the Operational Phase. While the use of SUDS measures are not intended to avoid or reduce the harmful effects of a project on a European site, they will reduce peak flow rates and the likelihood of suspended solids or hydrocarbons entering the water system. They are clearly not included as a measure to mitigate potential impacts on European sites. Furthermore, the scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.

It is proposed to discharge foul sewerage by means of a new sewer and discharge to the public sewer. There is an indirect hydrological pathway between the application site and the Blackwater River (Cork/Waterford) SAC via the public drainage system and the Rathcoole WWTP. Uisce Eireann Waste Water Treatment Capacity Register, June 2023 (accessed online 31 October 2023) assigns Rathcoole WWTP a Green status where Green indicates spare capacity. Based in the available documentation I concluded that it provides a reasonable basis to conclude that this proposed development would not be likely to give rise to significant effects on the conservation objectives of European Sites, either individually, or when taken together and in combination with other plans or projects. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the available capacity remaining. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.

I note that a Construction Management Plan has been prepared for this scheme and was submitted as part of the application documentation to Cork County Council. The measures outlined are regarded as best work practices that are an integral part of the proposed development that will be implemented by those carrying out the

development at the same time and as part of the same process, as opposed to separate measures that would be conceived and implemented to mitigate potential impact on Natura 2000 sites.

7.3.11 Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.3.12 Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Act 2000 as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that there is no potential for significant effects on the Blackwater River (Cork/Waterford) SAC (Site Code 002170) as a result of the project individually or in combination with other plans or projects cannot be excluded in view of the Conservation Objectives of that site, and Appropriate Assessment is therefore required.

Notwithstanding the submission of an NIS in order to facilitate the Board in carrying out an Appropriate Assessment, I consider that the particular characteristics of the project for which permission is being sought in the current application, including its location on a fully serviced site are such that it would not be likely to have a significant effect on any Natura 2000 site, either individually or in combination with other projects. This exclusion can be made in view of the objective information set out in the application and this report. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Blackwater River (Cork Waterford SAC (site code 002170) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harming effects of the project on any European Sites

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for following reasons and considerations, subject to conditions set out below.

9.0 Reasons and Considerations

Having regard to objective DB-01 contained in the Cork county Development Plan 2022-2028 and the planning history of the site. It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety, would not be prejudicial to public health and would not have an adverse impact on the nearby Natura 2000 site. The proposed development would, therefore, be in accordance 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 received by Cork County Council on the 9th day of August 2021 and the 11th day of July 2022 And plans and particulars received by An Bord Pleanála the 22nd day of September, 2022 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>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application,</p>

	<p>unless otherwise agreed in writing with, the planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
4.	<p>a) All screen walls shall be two metres in height above ground level, constructed in concrete block, and shall be capped, and rendered on both sides in a finish to match the external finish of the dwellings.</p> <p>b) All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered on both sides or by 1.8m high timber fence with concrete posts.</p> <p>Reason: In the interest of visual and residential amenity.</p>
5.	<p>(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p>

	<p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees/hedging which are to be retained on the site.</p> <p>Reason: To protect trees/hedgerow and planting during the construction period in the interest of visual amenity.</p>
6.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to planning authority with the application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
7.	<p>The boundary planting and public open spaces shall be landscaped in accordance with the landscape scheme submitted to the planning authority with the application, unless otherwise agreed in writing with the planning</p>

	<p>authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.</p> <p>Reason: In order to ensure the satisfactory of the public open space areas, and their continued use for this purpose.</p>
8.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
9.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of /installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
10.	<p>All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
11.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to</p>

	<p>commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
12.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Eireann.</p> <p>Reason: In the interest of public health.</p>
13.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.</p> <p>Reason: In the interest of public health and surface water management</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<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 .</p> <p>This plan shall provide details of intended construction practice for the development , including:</p> <p>a) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;</p> <p>c) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p>

	<p>d) Location of areas for construction site offices and staff facilities;</p> <p>e) Details of site security fencing and hoardings;</p> <p>f) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>g) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>h) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>i) Details of lighting during construction works;</p> <p>j) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>k) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site works;</p> <p>l) Provision of parking for existing properties at during the construction period;</p> <p>m) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>n) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>o) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>p) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>q) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p>
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	<p>Reason: In the interest of amenities, public health and safety.</p>
16.	<p>Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, such agreement must specify the number and location of each housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
17.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the plan of the area.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering</p>

	<p>the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge</p>
19.	<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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Dáire McDevitt
Senior Planning Inspector

13th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 314526-22		
Proposed Development Summary	Permission for 8 no. dwellinghouses and associated site works.		
Development Address	Radharc na Coille, Rathcool, Mallow, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	yes	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	x	Class 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes	x	Class 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 314526-22	
Proposed Development Summary	Permission for 8 no. dwellinghouses and associated site works.	
Development Address	Radharc na Coille, Rathcool, Mallow, Co. Cork.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>The development comprises the construction of 8 houses on lands where residential is permitted in principle. The site is located on an established residential area.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The removal of topsoil and small amounts of C&D waste will be managed in accordance with a CDWMP. Localised construction impacts will be temporary.</p>	No

<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>8 houses</p> <p>The size of the development is not exceptional in the context of the existing built environment.</p> <p>The proposed development for 8 houses would form part of an existing residential development of 47 houses.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The Blackwater River Cork/Waterford) SAC (site code 00217) is located c. 387m to the east and c.1km to the north of the site. A Natural Impact Statement submitted with the application. Refer to section 7.3 of the Inspectors Report where AA was screened out.</p> <p>There is no evidence of other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____