



An
Bord
Pleanála

Inspector's Report

ABP-315960-23

Development	Retention permission for demolition of existing structure and construction of single storey dwelling
Location	Fiery Lane, Glencullen, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0959
Applicant(s)	Stephen Fitzachary
Type of Application	Retention Permission and Permission
Planning Authority Decision	Refused Permission
Type of Appeal	First Party Appeal
Appellant(s)	Stephen Fitzachary
Observer(s)	None
Date of Site Inspection	26 th June 2023
Inspector	Susan Clarke

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1.0 Site Location and Description

- 1.1. The 0.29 hectares site is located in an elevated rural area less than a kilometre from the small village of Glencullen, 4km south of Stepside and 4.5km southwest of Carrickmines Retail Park. The topography in this area is dominated by the valley of the Glencullen River, which flows in a general direction from north-west to south-east.
- 1.2. The irregular shaped site forms part of a small family holding at this location, which includes Glencullen Christmas Tree Farm. The Christmas Tree Farm separates the subject site and two single storey dwellings, which the Applicant states are occupied by family members. 'Shannon', a single storey dwelling, borders the site to the south. The site is bound by agricultural land to the north and west.
- 1.3. There is a partially complete, single storey dwelling and two agricultural outbuildings on the site. The site slopes down in a southward direction with a retaining wall along the southern boundary separating the subject site from the 'Shannon' property, which is on lower ground.
- 1.4. The site is accessed via Fiery Lane, a cul-de-sac, off Ballybrack Road (R116). The Lane is narrow and poorly aligned. There are a number of single storey, detached dwellings on large plots fronting onto the Lane.
- 1.5. The context of the subject site is presented in the appendix to this report which includes, maps and a number of photographs taken on the day of my site inspection.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - Retention permission for the demolition of a pre-existing structure and the construction of a single storey dwelling unit (c.94 sq m) as constructed, and
 - Permission for:
 - a proposed effluent treatment system to serve the dwelling unit,
 - revisions to boundary treatments and,
 - all associated site works.

The flat roofed, rectangular plan, dwelling measuring 2.7m in height comprises one-bedroom, an open plan dining/living/kitchen area, a utility and a bathroom. It is 12.5m wide by 8.4m deep and is located on a north-south orientation, in the southwest corner of the site. The front elevation (north east) is finished in stone, while the rear (south west) elevation is constructed with concrete blocks. The north west elevation directly abuts an agricultural shed, while the south east elevation (also constructed with cement blocks), facing the neighbouring property 'Shannon', has no windows.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Local Authority issued a Notification of the Decision to Refuse Permission for Retention for the proposed development on 7th February 2023, for two reasons:

1. *The site of the development to be retained is located in an area zoned 'G' in the 2022-2028 Dún Laoghaire-Rathdown County Development Plan with the objective 'to protect and improve high amenity areas' where the position in relation to 'one-off- housing is essentially restrictive and precautionary and where dwellings will only be permitted on suitable sites where the applicant can demonstrate a genuine need for housing in the area as their principal employment is in agriculture, hill farming or local enterprise, directly related to the areas amenity potential and where the proposed development will have no potential negative impact for the area in such terms as visual prominence or impacts on views and prospects or the natural or built heritage. The Applicant has failed to satisfactorily demonstrate that the farm as a business is capable of generating sufficient returns to be a principal form of employment for more than one person in order to support the need for an additional dwelling on site, given that there are two dwellings within the applicant's control (within the blue line of the site location map Drg: PP/02-01). Furthermore, the applicant has not satisfactorily demonstrated, as required by Sec 12.3.10 – One-Off Housing in the Countryside of the County Development Plan that 'a family flat would not be suitable'. Therefore, the requirement to establish a genuine need for an additional 'one off' housing in the area has not been met. The development to be retained therefore contravenes Policy Objective PHP23 of the Dún*

Laoghaire Rathdown County Development Plan 2022-2028 and is not in accordance with the proper planning and sustainable development of the area.

2. *The principle of demolishing a structure of vernacular style capable of making a positive contribution to the area with the zoning objective 'G': 'to protect and improve high amenity areas' is contrary to the Development Plan 2022-2028 Policy Objective HER20 and Policy Objective PHP23 Criterion 2. Therefore, the proposed development would set an undesired precedent that could undermine the character of the Glencullen area, an area of high amenity and would be contrary to the proper planning and sustainable development.*

3.2. Planning Authority Reports

3.2.1. Planning Report (7th February 2023)

3.2.2. The Planning Officer details the site context, submissions received in respect of the application, planning history, and the relevant policy considerations before assessing the proposal in the context of the applicable 'G' land use zoning objective and rural housing policy in the Dún Laoghaire Rathdown County Development Plan 2022-2028. The Report proceeds to consider the submitted particulars as regards compliance with the rural housing eligibility criteria and states that the applicant has not established a need to reside in the area and the need for an additional dwelling associated with the farm. In addition, the Officer states that the Applicant has not demonstrated a 'rationale clearly detailing why a family flat is not a suitable alternative' as per Section 12.3.10 of the Development Plan.

3.2.3. In terms of the demolition of a pre-existing structure, the Officer noted that the site is located within the Glencullen Valley Landscape Area, which is deemed to be a highly sensitive landscape. The Officer stated that the principle of its demolition was contrary to Policy Objective HER20.

3.2.4. The Planning Officer recommended that permission be refused in accordance with the reasons outlined above.

3.2.5. Other Technical Reports

Transportation Planning (26th January 2023): No objection subject to condition.

Drainage Planning (17th January 2023): No objection subject to condition.

3.3. Prescribed Bodies

The Heritage Council: No comments received.

Minister for Culture, Heritage and the Gaeltacht: No comments received.

An Taisce: No comments received.

3.4. Third Party Observations

3.4.1. Four Third-Party Observations (all from local Councillors) were submitted to the Local Authority in support of the proposed development. The key points raised can be summarised as follows:

- The Applicant and his family have lived in Glencullen all their lives.
- The Applicant is employed fulltime as a manager on the family Christmas tree farm, and intends on developing and diversifying the enterprise further, which will benefit the wider area.
- There is an established housing need.

4.0 Planning History

4.1. Planning Applications

4.1.1. The site has an extensive planning history; permission has been previously refused on four occasions since 2020 for the same development as the subject application: Reg Refs.: D20A/0765, D21A/0333, D22A/0122, and D22A/0523. In short, each refusal refers to the site's 'G' land use zoning objective, which restricts the spread of one-off housing in the rural countryside. The two latter decisions also include a refusal reason relating to the undesirable precedent of demolishing a vernacular style structure that is capable of making a positive contribution to the area (i.e. the same refusal reason attached to the subject case). None of the applications were appealed to the Board.

4.1.2. In the first application (**Reg. Ref. D20A/0765**), the Applicant was Jimmy Fitzachary, Stephen Fitzachary's father. The Local Authority stated that Jimmy Fitzachary had an existing dwelling on the site and had not demonstrated a genuine need for additional housing in the area.

- 4.1.3. In the second application (**Reg. Ref. D21A/0333**), the Local Authority stated that the Applicant (Stephen Fitzachary) failed to satisfactorily demonstrate that his current principal employment is in agriculture, hill farming or a local enterprise directly related to the area's amenity potential, and as such the requirement to establish a genuine need for additional housing in the area was not met.
- 4.1.4. In the third application (**Reg. Ref. D22A/0122**), the Local Authority stated that the Applicant (Stephen Fitzachary) failed to satisfactorily demonstrate that the farm, as a business, is capable of generating sufficient returns to be a principal form of employment; and given that there are two dwellings within the applicant's control, the applicant has not satisfactorily demonstrated, as required by Section 8.2.3.6 (Rural Housing) of the County Development Plan, that 'a family flat would not be suitable'. As such the requirement to establish a genuine need for additional housing in the area was not considered to be met. In addition, a second reason for refusal was included relating to the demolition of a vernacular style structure capable of making a positive contribution to the area.
- 4.1.5. In the fourth application (**D22A/0523**), the Local Authority stated that the Applicant (Stephen Fitzachary) failed to satisfactorily demonstrate that the farm, as a business, is capable of generating sufficient returns to be a principal form of employment for more than one person, in order to support the need for an additional dwelling on site, given that there are two dwellings within the applicant's control (within the blue line of the site location map Drg: PP/02-01). Furthermore, the Applicant has not satisfactorily demonstrated, as required by Section 12.3.10 (One-Off Housing in the Countryside) of the County Development Plan that 'a family flat would not be suitable'. Therefore, the requirement to establish a genuine need for an additional 'one off' housing in the area was not considered to be met. As stated above, a second reason for refusal was included relating to the demolition of a vernacular style structure capable of making a positive contribution to the area.

4.2. Enforcement

- 4.2.1. The Local Authority's Planner's Report highlights that there is a live enforcement file pertaining to the proposed retention works (Ref. ENF 21420).

5.0 Policy Context

5.1. National and Regional Policy

5.1.1. Project Ireland 2040 - The National Planning Framework (2018)

National Policy Objective 15:

- Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 19:

- Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:
 - In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
 - In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.2. Eastern and Midland Regional Spatial & Economic Strategy (RSES), 2019-2031

Section 4.8: 'Rural Places: Towns, Villages and the Countryside' of the RSES states that:

'A key challenge is to ensure that in planning for rural places, responses are uniquely tailored to recognise the balance required between managing urban

generated demand in the most accessible rural areas, typically in proximity to Dublin and other towns, whilst supporting the sustainable growth of rural communities and economies, including those facing decline. In general, those rural places in proximity to large urban centres have experienced significant growth and urban generated pressures and require levels of growth to be managed in order to ensure that there is a requisite service level for the existing population’.

It further states that the rural housing planning policy of local authorities should be evidence-based and accommodate rural-generated housing consistent with the settlement framework contained in the RSES and the ‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’, or any successor thereof, and should be accommodated within the Housing Needs Demand Assessment, reflecting the housing needs of the county as a whole.

In this regard, Regional Policy Objective (RPO) 4.80 states that:

- *Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and settlements.*

5.1.3. Sustainable Rural Housing, Guidelines for Planning Authorities, 2005

These Guidelines promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an ‘Area under Strong Urban Influence’ as indicatively identified by the Guidelines. In this regard, Section 2.4.7 ‘Rural Settlement Strategy’ of the Dun Laoghaire Rathdown County Development Plan 2022-2028 states:

*The ‘rural’ footprint of DLR is primarily concentrated in the south-west of the County and generally comprises the foothills of the Dublin Mountains and includes the upland plateau framing Carrickgollogan and Ballycorus (see Figure 2.9 above). **The proximity of the defined rural footprint immediately***

adjacent to the edge of the urban/suburban extent of the County places the Rural Amenity and High Amenity zones under strong urban influence for housing, and the Development Plan reflects this by having a carefully defined Rural Settlement Strategy. (Bold: My emphasis.)

5.2. Local Policy - Development Plan

5.2.1. Dun Laoghaire Rathdown County Development Plan 2022-2028

Land Use Zoning

5.2.2. The subject site is zoned 'G' in the Development Plan, which aims "To protect and improve high amenity areas". 'Residential' which is in accordance with Council Policy for Development in Rural Areas is listed as being 'Open for Consideration' under this land use zoning.

Rural Housing

Policy Objective PHP23: Management of One-off Housing

It is a Policy Objective to restrict the spread of one-off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. One-off housing will only be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives). (Consistent with NPO 19 of the NPF and RPO 4.80 of the RSES).

Section 4.3.1.6 of the Development Plan states:

It is recognised that much of the demand for one-off housing is urban-generated resulting in an unsustainable pattern of development, placing excessive strain on the environment, services, and infrastructure. In order to protect the rural character of the countryside and foster sustainable development it is necessary to restrict the growth of urban-generated 'one-off' housing and only facilitate genuine and bona fide cases for new residential development within the County's rural areas.

Development proposals will be evaluated in accordance with the provisions of the 'Sustainable Rural Housing Guidelines for Planning Authorities', 2005 (and any amendment thereof), Circulars SP 05/08 and PL 2/2017, and the following criteria:

High Amenity Zone Objective 'G'

Within areas designated with zoning Objective 'G' ("to protect and improve high amenity areas") dwellings will only be permitted on suitable sites where the applicant can demonstrate to the satisfaction of the Planning Authority that:

- There is genuine requirement for housing in the area because their principal employment is in agriculture, hill farming or a local enterprise directly related to the area's amenity potential.*
- The proposed development will have no potential negative impacts for the area in such terms as visual prominence or impacts on views and prospects, or the natural or built heritage.*

Development Management Standards

Section 12.3.10 of the Development Plan relates to one-off-housing in the countryside. The subsections within this part of the Development Plan provide guidance on suitable sites, design, occupancy, etc.

Applications received for one-off dwellings in lands zoned objective 'G' will be assessed having regard to:

- The applicant's full-time employment or their commitment to operate a full-time business from their proposed home in a rural area (to discourage commuting to towns and cities).
- How their existing or proposed business contributes to and enhance the rural community.
- The nature of an applicant's employment or business being compatible with rural areas (in order to discourage applicants whose business is not location dependant e.g. telesales or telemarketing).

In all cases, the applicant shall submit the following details with planning applications for residential development within a rural area:

- A map showing all existing family owned property and lands.
- A rationale as to why a particular site has been chosen for development.
- A strong justification in relation to the need for an additional dwelling in the rural area.
- A rationale clearly detailing why a family flat is not a suitable alternative.
- Documentary evidence to show how the applicant complies with rural housing policy.
- A site suitability report in relation to waste water treatment.

Section 12.3.9 of the Development Plan relates to demolition and replacement dwellings.

Landscape Character

The subject site is located within the Landscape Area 7 (Glencullen Valley), which is described in Appendix 8 (Landscape Character Areas) as “*possibly the most tranquil, unspoilt, high amenity area in the County*”. The Strategy for this area includes *inter alia*:

- This is a highly sensitive landscape in which any development must be handled with care. Linear elongation of the existing Glencullen village shall be avoided.
- Building – any new development shall respect the vernacular in design, mass and scale. Development on ridges shall be avoided.
- To concentrate all new housing development within the village core and specific identified rural clusters. Residential development in the form of new dwelling houses will not be permitted outside the designated village core and rural clusters.

Policy Objective GIB4: High Amenity Zones

It is Policy Objective to conserve and enhance existing High Amenity Zones and to seek to manage these and other areas to absorb further recreational uses and activity without damaging their unique character.

Policy Objective HER20: Buildings of Vernacular and Heritage Interest:

It is a Policy Objective to:

- i. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.
- ii. Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts, pub fronts and other significant features.
- iii. Ensure that appropriate materials be used to carry out any repairs to the historic fabric.

5.3. **Natural Heritage Designations**

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

- Proposed Natural Heritage Area: Knocksink Wood (site code: 000725)
- Special Area of Conservation: Knocksink Wood SAC (site code: 000725)
- Proposed Natural Heritage Area: Ballybetagh Bog (site code: 001202)
- Special Area of Conservation: Wicklow Mountains SAC (site code: 002122)
- Special Protection Area: Wicklow Mountains SPA (site code: 004040).

5.4. **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact

assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A First-Party Appeal was lodged to the Board on 3rd March 2023 opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- It is apparent from the submissions received in respect of the application that the Applicant has been a long-standing member of the local community.
- The Christmas Tree Farm has supported the Applicant's father and family for over 20 years.
- The Applicant's father has retired from the business. The farm will solely support the Applicant, with the Applicant's father having a limited advisory role. The farm will operate to provide the Applicant with his primary source of income. As such, there is an undeniable and immediate need for the Applicant to reside in the area.
- The proposal is consistent with NPF 15 and the RSES in supporting rural areas. It is suggested that policies on rural housing must achieve the balance between avoiding over development and the sustaining of rural communities.
- Should permission not be granted, the Applicant would have to commute to the farm.
- An overview of the four previous refusals relating to the site is provided. The Planning Authority have provided confusing and contradictory criteria in the assessment of the Applicant's attempt to demonstrate a local housing need.
- The original structure was the ancestral home of Applicant's grandfather, however the residential use of the building has long since been abandoned.
- Difficult to understand why the Planning Authority did not raise issue in relation to the viability of the farm when the original application (Reg. Ref. D20A/0765) stated that the annual sales of trees was 1,700, but considered the ability of the

farm to produce 5,000 trees per year for sale as quoted in a subsequent application (Reg. Ref. D22A/0122) as being insufficient to demonstrate that the operation was capable of representing a primary form of employment. The Planning Authority accepted that the annual sales provided were sufficient to represent a primary form of employment in the two former applications (Reg. Ref. D22A/0523 and D22A/0959).

- The Planning Authority have provided conflicting assessments in their determination of what constitutes as a primary form of employment. The manner in which the Planning Authority have sought to use policy in relation to additional dwellings on the Applicant's landholding is clear demonstration of the overreach of the Planning Authority. Evidence has been provided to demonstrate that the farm is a viable operation and provides sufficient turnover to act as the primary source of income for the Applicant.
- Granny flats are intended to be used by elderly relatives, and not suitable for young families who intend to reside in the area for the medium to long term.
- There are significant constraints on the site at 'Cedar Conser', the property occupied by the Applicant's parents that would not allow for additional vehicular movements created by two additional vehicles and as such the criteria outlined in Section 12.3.10.6 in relation to the development of a granny flat.
- 'Cedar Conser' has no link to the operations of the Christmas Tree Farm owing to the fact that the Applicant's father has now retired. The property adjacent to 'Cedar Conser' is occupied by a family relative and was granted permission under Reg. Ref. D15A/0499 based on a separate business operation. The Applicant has a genuine housing need in the area and as such the Planning Authority's suggestion that a property previously linked to the operation of the farm, in which the Applicant's parents will continue to reside, precludes the Applicant from have a dwelling of his own adjacent to the business, is unsupported by national, regional and local policy.
- The pre-existing structure could not be considered to make a positive contribution to the character and appearance of the area. The proposed dwelling for retention has developed to respect the overall scale and form of the former structure and has employed traditional materials as a nod to the

vernacular style of the area. As such, the Applicant questions the rationale of the planner in suggesting that the proposed development is not in keeping with Policy HER 20.

- Demolition of the structure is exempt as it formed part of the farmyard complex associated with 'Cedar Conser' and it measured 37 sqm.

6.2. **Planning Authority Response**

- 6.2.1. The Local Authority advised the Board on 31st March 2023 that it considers that the grounds of appeal do not raise any new matter which, in my opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. **Observations**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

Having examined the application details and all other documentation on file, including the submissions received in relation to the planning application and First-Party Appeal, and inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues on this appeal are as follows:

- Rural Housing Policy
- Demolition of a Vernacular Structure.

This section represents my de novo assessment of the subject case before the Board. As highlighted earlier, none of the four previously refusals relating to the site were appealed to the Board.

7.1. Rural Housing Policy

- 7.1.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy, it is of relevance in the first instance to note that the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'. These 'Areas under Strong Urban Influence' are described as exhibiting characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Dublin City) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing them. By extension, Section 2.4.7 of the Rural Settlement Strategy in the Development Plan states that Rural Amenity and High Amenity zones are under strong urban influence for housing.
- 7.1.2. Regional Policy Objective (RPO) 4.80 of RSES requires local authorities to manage urban generated growth in 'Rural Areas Under Strong Urban Influence' (i.e. the commuter catchment of Dublin, large towns and centres of employment) by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and settlements.
- 7.1.3. It should also be noted within 'areas under urban influence', the National Planning Framework ('Project Ireland 2040: Building Ireland's Future') states that it will be necessary for applicants to demonstrate 'a functional economic or social requirement for housing need' (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements).
- 7.1.4. The Sustainable Rural Housing Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances. The Guidelines state that in facilitating housing intended to meet rural-generated needs eligible persons can

include those working full-time or part-time in rural areas or persons who are an 'intrinsic part of the rural community' which are defined as follows:

'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence'.

- 7.1.5. For the purposes of clarity, I would advise the Board that Circular letter PL 2/2017: 'Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans' clearly states that the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005' remain in place and thus form the current 'default' position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department.
- 7.1.6. Considering the ribbon development along Fiery Lane and the proliferation of one-off rural housing development observed in the wider area during the course of my site inspection, and the evidence of the continuing pressure for such development due to the site location within the Dublin Metropolitan Area, I would concur that the prevailing characteristics of the surrounding area are indicative of an 'Area under Strong Urban Influence'.
- 7.1.7. As stated above, the site is zoned 'G' in the Development Plan, which aims "To protect and improve high amenity areas". 'Residential', which is in accordance with Council Policy for Development in Rural Areas, is listed as being 'Open for Consideration' under this land use zoning. Section 4.3.1.6 states that new residential development in rural areas will only be facilitated if there is a genuine and bona fide case for such development.
- 7.1.8. Policy Objective PHP23 aims to restrict the spread of one-off housing into the rural countryside. One-off housing will only be acceptable where it is clearly shown that:
- It is not urban-generated,

- Will not place excessive strain on services and infrastructure,
- Will not have a negative impact on landscape, and
- Where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

7.1.9. Furthermore, Section 4.3.1.6 states that dwellings in rural areas will only be permitted on suitable sites where the applicant can demonstrate to the satisfaction of the Planning Authority that:

- There is genuine requirement for housing in the area because their principal employment is in agriculture, hill farming or a local enterprise directly related to the area's amenity potential.
- The proposed development will have no potential negative impacts for the area in such terms as visual prominence or impacts on views and prospects, or the natural or built heritage.

7.1.10. The above criteria is considered below.

Urban-generated Development

7.1.11. On review of the application documentation, I understand that the Applicant, Stephen Fitzachary, recently returned from living in Australia. I note that the Applicant's address is stated in the Cover Letter to the Local Authority and in the First-Party Appeal to be 'Fiery Lane, Glencullen, Dublin 18'. No Eircode is provided. It is unclear from the information submitted with the application which specific dwelling the Applicant is currently residing in. The Cover Letter (dated 5th December 2022) submitted to the Local Authority states that the Applicant "is now residing in the area full time with his partner". I note from my site visit that the proposed dwelling for retention is only partially complete and did not appear to be inhabited. As noted above, planning permission has also been sought for a wastewater treatment system to service the dwelling.

7.1.12. The First-Party Appeal asserts that the four observations submitted to the Local Authority in respect of the planning application demonstrate that the Applicant is a long-standing member of the local community. However, no official documentary evidence (for example in relation to the Applicant's association with local schools,

clubs, etc.) has been provided to demonstrate same. One of the criteria under Section 12.3.10 (One-Off Housing in the Countryside) in the Development Plan requires that in all cases applicants for residential development within a rural area shall submit documentary evidence to show how the applicant complies with rural housing policy. I do not consider the four submissions from local councillors sufficiently demonstrates that the proposal is not urban-generated development, notwithstanding that the Applicant states that his primary employment is with the Christmas Tree Farm and that he has family residing in the area.

Services and Infrastructure

7.1.13. Section 18 of the Planning Application Form outlines that a new connection to the public mains will be sought. There is no correspondence on the file from Irish Water confirming acceptance or otherwise with this proposal. In terms of surface water disposal, it is stated that a soakpit will be provided.

7.1.14. A packaged wastewater treatment system and polishing filter is proposed for the discharge of foul water. The Site Characterisation Form submitted with the planning application notes that the site is located PI- poor aquifer area. The GSI vulnerability mapping shows the site located in an area classified as having high groundwater vulnerability. A groundwater protection response of R1 applies to the site (acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with the CoP). The bedrock type is noted as GII (Granites and other igneous instructive rocks), while the soil type is recorded as Till derived chiefly from granite. Glencullen is listed as being the closest public/Group Scheme Water Supply in the area. There are in excess of ten dwellings accessed via Fiery Lane. The Site Characterisation Form highlights that there is potential for “existing wells in the area, but from a site visit to all the existing houses are on mains water”. The Form states that there no karst features in the area. There are no streams/rivers in the immediate vicinity of the site. The predicted groundwater flow direction is to the south. I note that the Form states that a trial hole with a measured depth of 1.9m was excavated along the northeastern boundary of the site (i.e. adjacent to the polishing filter system). Beneath the topsoil, sandy soils were recorded at 0.6m, and loose soils at 1.2m. The ground conditions were dry during my site visit, however I highlight that the visit was conducted in a very dry period in June. A T-value of 16.92 and P-value of 13.39 was calculated based on tests undertaken in September 2020. The test

results indicate that the soils should be suitable for use in a percolation area/polishing filter system. It is proposed to install a packaged wastewater treatment system and polishing filter (45 sq m). I note that the system has the capacity to cater for a PE of 6 persons, notwithstanding that the proposed dwelling for retention is a one-bed unit. Details provided on the proposed site layout plan indicate that the system would generally comply with the EPA Guideline's minimum separation distances to features of interest. I am satisfied that the assessment and the proposed development design details generally comply with those required within the 'Code of Practice - Wastewater Treatment and Disposal Systems serving Single Houses (population equivalent ≤ 10).

7.1.15. In terms of transport, the Planning Application Form states that two car parking spaces are proposed. As part of the justification as to why the use of a 'granny flat' would not be acceptable, the Applicant emphasises the car-dependency nature of the proposed dwelling for retention. Fiery Lane is very narrow, with poor alignment in parts, and has no footpaths. Ballybrack Road is serviced by Dublin Bus, with the Bus Stop 3516 being located opposite the junction of Fiery Lane and Ballybrack Road. I consider that there is significant hardstanding space in front of the dwelling to accommodate two cars. In addition, I consider that the sightlines are sufficient from the site to ensure that the development would not represent a traffic hazard having regard to the low volume of traffic on the Lane.

7.1.16. I highlight that the Local Authority's Drainage Department and Transportation Department had no objection to the proposal, subject to condition. In summary, having regard to the scale and nature of the proposed development I do not consider that it would put 'excessive' strain on services and infrastructure, however nevertheless the proposal would contribute to unsustainable travel patterns and only further hamper attempts to move toward a low carbon economy.

Landscape

7.1.17. As stated above, the site is located within the Landscape Area 7 (Glencullen Valley), which is described in Appendix 8 (Landscape Character Areas) of the Development Plan as "*possibly the most tranquil, unspoilt, high amenity area in the County*". Whilst I would not describe the proposed dwelling for retention as large, it is more than double the size of the original structure. However, notwithstanding its scale, I do not consider its fenestration detail or the use of a sandstone colour on the front elevation to

represent a vernacular style typical of the area. The Board will note from the attached photographs that the stone on the front elevation does not correlate with the stone of the former dwelling on the site or stone in the area, which many of the field boundaries in the neighbouring area are constructed with. As such, in my opinion, the proposal is contrary to Policy Objective GIB4 which aims to conserve and enhance existing High Amenity Zones.

7.1.18. There is a proliferation of rural dwellings along the cul-de-sac between 'Shannon' and the junction of Fiery Lane and Ballybrack Road and in the wider area, highlighting the development pressure that this area appears to be under. The proposed dwelling would be the ninth dwelling within a 270m stretch on the cul-de-sac from the junction of Fiery Lane and Ballybrack Road. Section 12.3.10.2 of the Development Plan clearly states that ribbon development is not acceptable in rural areas. I consider that a proposed dwelling at this location would contribute further to an excessive density of development in this area and would militate against the preservation of the rural environment. Based on the foregoing, I consider that the proposal would be contrary to the proper planning and sustainable development of the area.

7.1.19. The impacts from the demolition of the pre-existing structure on the landscape are discussed in Section 7.2 below.

Genuine Local Need to Reside in a Rural Area

7.1.20. The fourth test as per Policy Objective PHP23 is the demonstration of a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

7.1.21. The Applicant has sought to rely on his involvement in the Glencullen Christmas Tree Farm with a view to establishing an economic / employment based need to reside at the subject location. Glencullen Christmas Tree Farm is approx. 2.25 ha¹ (excluding the subject site and 'Cedar Conser'). The Applicant indicates that the dwelling is intended for his and his partner's use from which he will manage the business. Noting the absence of information as regards his current place of residence, I am not satisfied that a demonstrable need to reside at the location proposed has been established.

¹ Measurement taken using Google Earth.

7.1.22. Furthermore, notwithstanding the financial documentation on file in relation to the business or the Local Authority's comments regarding the viability of the business in previously applications relating to the site, and acknowledging that this is a de nova assessment of the subject development, I question whether there is a full-time employment requirement throughout the year for the business having regard to the size and nature of the farm (i.e. a c. 2.25ha Christmas tree farm). I acknowledge that maintenance through the calendar year would be required on the farm, however I am not convinced that it is required on a fulltime basis having regard to the documentation on file. Whilst the Applicant states that the farm has annual sales of 1,500 trees, it is also contended that this number could be increased to 5,000. It is not clear what would be required (e.g. additional growing area) in order to facilitate such an increase in production. It is further stated by the Applicant that the business could diversify. Notwithstanding this, I do not consider sufficient evidence has been provided with the application to adequately justify such an employment requirement based on the farm's current nature, size, and output.

7.1.23. The Applicant states that he is the "sole operator" of the Christmas Tree Farm. In this regard the following was submitted with the planning application and First-Party Appeal:

- three payslips (dating from June and July 2022) in the Applicant's name,
- a balance sheet for the business as of 31st December 2021,
- correspondence (dated 1st March 2023) from the Irish Christmas Tree Growers confirming the Applicant's membership of the Association, and
- correspondence (dated 24th February 2023) from the business's accountants and tax advisors stating that the business was registered in 2009 and outlining the business' annual takeover. The correspondence states that both the Applicant's father and the Applicant are employed by the business and that the Applicant will in due course, based on succession planning, become the full owner of the land and business.

7.1.24. The First-Party Appeal contends the above is substantial financial documentation demonstrating that the Applicant is the sole operator of the business. I do not consider this to be the case. Whilst the Applicant's involvement in the farm is noted, there are inconsistencies in the documentation on the file regarding the Applicant's father's

involvement on the farm. The Cover Letter states that his father “is now in the process of retiring from the business and will play a minor role in the operation going forward”. However it is also stated in the Appeal that ‘Cedar Conser’, which is owned and occupied by the Applicant’s parents, is no longer linked to the operation of the business. The correspondence from the business’s accountants and tax advisors states that both father and son appear to be involved in the operation of the business. In short, I do not consider that the information listed above sufficiently demonstrates that the Applicant is the sole operator of the business. However, in my view, this is a secondary matter in comparison to the fact that no details have been provided of the Applicant’s current residence and the requirement for the 2.25ha farm to have full-time personal throughout the year, irrespective of whether or not the Applicant is the sole operator.

7.1.25. Section 4.3.16 of the Development Plan requires that applications for dwellings on ‘G’ zoned lands will only be permitted on suitable sites where the applicant can demonstrate to the satisfaction of the Planning Authority that:

- There is genuine requirement for housing in the area because their principal employment is in agriculture, hill farming or a local enterprise directly related to the area’s amenity potential.
- The proposed development will have no potential negative impacts for the area in such terms as visual prominence or impacts on views and prospects, or the natural or built heritage.

7.1.26. With respect to the first test, I do not question the business’s contribution to the area’s amenity, however I would contend that this is largely at Christmas time only. Notwithstanding this, I acknowledge that there is work required throughout the year in order for the trees to be sold at Christmas time. However, as outlined above, I question if this work is on a fulltime basis throughout the year, and if so, for how many employees.

7.1.27. In respect to the second test, as outlined above, I consider that the proposed dwelling for retention is not of a vernacular style and would negatively impact the visual amenity of the area, which has a highly sensitive character. Furthermore, I consider that the proposed development will exasperate ribbon development in the area and as such would negatively impact on the preservation of the rural environment.

7.1.28. Having regard to the foregoing, and in light of National Policy Objective 19 of the NPF which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of a demonstrable economic or social need to live in a rural area while having regard to the viability of smaller towns and rural settlements, it is my opinion that given the site location within the Dublin Metropolitan Area and its proximity to Glencullen village and other nearby settlements, and notwithstanding the assertions regarding his level of involvement on the farm or submissions on file indicating his involvement in the area, the Applicant has not established that he comes within the scope of either the economic or social housing need criteria set out in the overarching national guidelines. In effect, I am unconvinced that the Applicant's needs cannot be satisfactorily accommodated elsewhere, such as within Glencullen village or any of the other designated settlements in the wider area, having regard to the need to support the viability of towns and settlements as per Objective 19 of the NPF.

7.1.29. **Planning Application Criteria**

Section 12.3.10 of the Development Plan states that in all cases, the applicant shall submit the following details with Planning Applications for residential development within a rural area:

- A map showing all existing family owned property and lands.
- A rationale as to why a particular site has been chosen for development.
- A strong justification in relation to the need for an additional dwelling in the rural area.
- A rationale clearly detailing why a family flat is not a suitable alternative.
- Documentary evidence to show how the applicant complies with rural housing policy.
- A site suitability report in relation to waste water treatment.

My assessment of the Applicant's compliance with these criteria is outline below:

- The Site Location Map (Dwg. No. PP/02/01) illustrates the family lands. I consider this acceptable.

- In terms of a rationale, it is indicated that the subject site was chosen to oversee the operation of the Christmas Tree Farm. As outlined above, I do not consider a sufficient rationale has been presented in this regard.
- It is stated that Cedar Conser and a nearby family dwelling permitted under Reg. Ref. D15A/0499 are not operationally linked to the farm and as such there is sufficient justification for the additional dwelling. As stated above, there appears to be inconsistencies in the application with regards to the Applicant's father's involvement in the business.
- Section 7.1.30 below outlines the Applicant's rationale for considering a family flat as a suitable alternative and my corresponding assessment.
- While the First-Party Appeal states that the Applicant has an "undeniable and immediate need" to reside in the area, I consider that the application falls significantly short in providing documentary evidence to support this claim.
- A site suitability report was submitted with the application. As outlined above, I am satisfied with the findings of the report and do not consider the proposal would be prejudicial to public health or likely to cause a deterioration in the quality of waters in the area.

Granny/Family Flat

- 7.1.30. In relation to a 'granny flat' being a potential alternative, I highlight that Section 12.3.10.6 of the Development Plan states "*Family flats can provide a short-to-medium term solution to housing needs within the rural area, particularly in cases where an applicant cannot satisfy rural housing policy ...*" The Development Plan states that such a flat would consist of extending/ adapting an existing family dwelling, and only in exceptional circumstances would the principle apply to an existing outbuilding or structure within the curtilage of a family dwelling. The Applicant states that such flats are intended for elderly people, and that they being no greater than 50 sq m, are not a suitable option for young families. Furthermore, the Applicant argues that the temporary nature of such accommodation is not a suitable long-term option.
- 7.1.31. I acknowledge that the term 'granny flat' may infer that such structures are for elderly people, but this does not preclude younger people from residing in them. I highlight that Section 12.3.10 of the Development Plan refers to such accommodation as a

'family flat', while Section 12.3.10.3 refers to 'family member/granny flat'. In my opinion, this reflects modern housing arrangements particularly for young people, which is largely due to the housing crisis throughout the Country. The Plan is clear that such an arrangement is on a short-medium term basis and is not proposed as a long-term option. In relation to size, I highlight that the Sustainable Urban Housing: Design Standards for New Apartments (December 2022) states that studios can be a minimum size of 37 sq m (i.e. the same size the pre-existing dwelling is stated to be), while the minimum overall floor area for a one bedroom apartment is 45 sq m. Having regard to the foregoing, I do not accept the Applicant's argument that a 50 sqm 'granny/family flat' is not suitable for young people on a temporary basis. The Local Authority has not stated that such accommodation would provide the Applicant with a long-term housing solution.

7.1.32. The Applicant argues that the addition of a granny flat to the existing Cedar Conser would be challenging based on the existing front drive of the property, which would not be capable of accommodating the vehicular movements of two additional vehicles. No analysis to demonstrate same has been provided. 'Cedar Conser' is a single storey dwelling on a large plot size. As such, I do not consider the Applicant's reasoning a sufficient justification for not availing of the granny/family flat option, if even on a temporary basis. More importantly, I reiterate that the Development Plan states that such structures may apply to an existing outbuilding or structure within the curtilage of a family dwelling.

7.1.33. In summary, whilst a granny/family flat may not be the Applicant's preferred option, I do not consider that he has provided a detailed rationale as to why such accommodation is not a suitable alternative option to meeting his housing need in the area on a temporary basis.

Conclusion

7.1.34. In conclusion, I am not satisfied that the Applicant has presented a genuine and bona fide case for a one-off rural dwelling at this location and I do not consider that the proposal is consistent with Section 4.3.1.6 or 12.3.10 of the Development Plan. I consider that the overall policy requirement set out in the Development Plan is clear and unambiguous and in line with national and regional guidance including the National Planning Framework and NPO19. There is a strategic focus on providing

housing in existing towns and villages and in preventing the scattering of urban generated housing across the countryside, especially in those areas such as Glencullen, which is under obvious pressures, with consequent impacts on the landscape and the provision of roads and other services. The application of the housing need criteria therefore has to be applied in a strict manner having regard to the presumption against such one-off rural developments. Whilst the Applicant states that his primary employment is associated with the Glencullen Christmas Tree Farm, he has not provided sufficient documentary evidence to demonstrate a genuine rural housing need to live at this location, which is under strong urban influence given its proximity to Glencullen and I recommend that planning permission should be refused on this basis.

7.2. Demolition of a Vernacular Structure

- 7.2.1. The Local Authority's second reason for refusal states that the demolition of a vernacular style structure capable of making a positive contribution to the area on lands zoned 'G', is contrary to Policy Objective HER20 and PHP23. It is stated that the development would set an undesired precedent that could undermine the character of the Glencullen area. As outlined above, the site is located within the Landscape Area 7 (Glencullen Valley), which is described in Appendix 8 (Landscape Character Areas) of the Development Plan as "*possibly the most tranquil, unspoilt, high amenity area in the County*".
- 7.2.2. The First-Party Appeal states that the structure was the ancestral home of the Applicant's grandfather, however the residential use of the building has long since been abandoned. It is stated that the structure formed part of the farmyard associated with 'Cedar Censar'. A 1837 OS Map is included in the application appearing to illustrate the subject structure. The Applicant has also provided two photographs of the former structure; one from Google Street View and a second illustrating a small section of the front and side elevation. Dwg. No. PP/04-03 'Original Structure as Demolished' illustrates the elevations and a floor plan of the former structure. There is no reference made to a structural or photographic survey being undertaken prior to the building's demolition. Furthermore, no architectural impact assessment has been submitted with the application outlining the significance or otherwise of the structure. The Applicant argues that the structure could not be considered to make a positive contribution to the character and appearance of the area.

- 7.2.3. Whilst the information in relation to the former dwelling is limited, having reviewed the two photographs of the former dwelling, I consider that it's vernacular style would have made a positive contribution to the area's architectural heritage noting that it was in situ in 1837. Furthermore, I consider that the Google Street View image clearly illustrates how the structure positively integrated into the surrounding landscape, which is highly sensitive, and contributed to the visual amenity of the area. The Applicant states that the structure would not have met modern family day requirements and would only have been suitable for storage use. However, it is unclear if any consideration was given to reinstating, renovating or extending the structure to make it more suitable to modern day family requirements, before it was demolished.
- 7.2.4. Having regard to the foregoing, I concur with the Local Authority that the demolition of the vernacular style structure in an area zoned 'G' "to protect and improve high amenity areas" is contrary to Policy Objectives GIB4 and HER20, and as such, I recommend that the Local Authority's refusal is upheld in this regard.

8.0 Appropriate Assessment

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

9.0 Recommendation

I recommend that planning permission be refused for the reasons outlined below.

10.0 Reasons and Considerations

1. Having regard to:
 - a) National Policy Objective 19 of the National Planning Framework (2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable

economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements;

- b) Regional Policy Objective RPO 4.80 of the Eastern and Midland Regional Spatial and Economic Strategy, 2019-2031;
- c) the location of the site within a rural area identified as being under strong urban influence in accordance with the 'Sustainable Rural Housing Guidelines for Planning Authorities' published by the Department of the Environment, Heritage and Local Government in April, 2005; and
- d) the site's location in an area zoned 'G' in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 with the objective 'to protect and improve high amenity areas' where the position in relation to 'one-off- housing is essentially restrictive and precautionary and where dwellings will only be permitted on suitable sites where the applicant can demonstrate a genuine need for housing in the area as their principal employment is in agriculture, hill farming or local enterprise, directly related to the areas amenity potential and where the proposed development will have no potential negative impact for the area in such terms as visual prominence or impacts on views and prospects or the natural or built heritage,

the Board is not satisfied, on the basis of the information submitted with the application and the appeal, that the applicant has a demonstrable economic or social need to live in this specific rural area. It is considered, therefore, that the applicant does not come within the scope of housing need criteria, as set out in the Sustainable Rural Housing Guidelines and in national and local policy, for a house at this location. In the absence of any identified exceptional or locally based need for the house at this location, it is considered that the proposed development would consolidate and contribute to the build-up of ribbon development in a rural area and would militate against the preservation of the rural environment in a highly sensitive landscape character area and as such would be contrary to Policy Objective GIB4. The proposed development would be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the Ministerial Guidelines and to the over-arching national and regional policy, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The principle of demolishing a structure of vernacular style capable of making a positive contribution to the area with the zoning objective 'G': '*to protect and improve high amenity areas*' and located within Landscape Area 7 (Glencullen Valley), which is contrary to the Dún Laoghaire Rathdown County Development Plan 2022-2028 Policy Objectives GIB4, HER20 and PHP23. The proposed development would set an undesired precedent that could undermine the character of the Glencullen area, an area of high amenity and, therefore, would be contrary to the proper planning and sustainable development.

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.

Susan Clarke
Senior Planning Inspector

26th June 2023