



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317376-23

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<b>Development</b>	Construction of 5 houses.
<b>Location</b>	Rathpeacon , Killeens , Co. Cork
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	2241547
<b>Applicant(s)</b>	Stillwater investments Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant, subject to conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Inland Fisheries Ireland.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	17.08.23 and 04.04.2024
<b>Inspector</b>	Terence McLellan

## 1.0 Site Location and Description

- 1.1. The appeal site refers to the broadly rectangular 0.12 hectare plot located in the village of Killeens at the junction of The lawn which provides access to the new Lois Cara estate, and Sunset Place which lies parallel to, and approximately 35m to the north of the New Mallow Road (N20). The site was formerly occupied by a derelict single storey dwelling and garage accessed from The Lawn, although these have now been demolished. All mature trees on the site have been removed but dense shrubbery remains on the eastern boundary. There is a significant change in levels across the site from south to north, with levels rising by approximately 3.5m across the 28m depth of the site (12% gradient).
- 1.2. The site is bounded to the east by two single storey corrugated roof buildings that are vacant. Further to the east there is a line of two storey terraced dwellings and a single storey public house. The two storey dwelling closest to the subject site is vacant and the entrance is fenced off. To the west on the opposite side of The lawn, there is a substantial two storey detached dwelling, whilst the land to the north of the site is being redeveloped to provide two storey semi-detached dwellings and appears to be in the final stages of construction. The southern boundary of the site is marked by Sunset Place and the adjacent embankment which screens the N20. There is a very narrow footpath onto Sunset Place (less than 1m in width).
- 1.3. A bus stop is located immediately adjacent to the site on the northern side of Sunset Place which is served by bus route 215, providing links from Mahon Point to Cloghroe via Cork City Centre on a broadly half hourly basis.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of the existing derelict structures and redevelopment to provide five terraced dwellings. Due to the change in levels, the proposed dwellings would be three storeys in height at the front and two storeys at the rear. Ten car parking spaces would be provided to the rear of the site, accessed from The Lawn alongside external bike and bin stores. At the front of the site, the development provides for an improved footpath in addition to the provision of a new bus layby to serve the existing bus stop. Materials include render, brickwork, and slate roofs.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.2. Notification of the Decision to Grant Permission was issued by Cork City Council on the 2<sup>nd</sup> June 2023, subject to 27 conditions as follows:

1. Compliance with plans and particulars.
2. Materials.
3. Street naming and numbering.
4. Restrictions on Exempted Development.
5. Management of construction waste.
6. Noise and hours of work.
7. Waste and orderly development.
8. Protection of watercourses and habitats during construction.
9. Waste collection, storage, and recycling.
10. Management company.
11. Payment of a bond.
12. Irish Water connection agreement.
13. Taking in Charge drawings.
14. Transport: Compliance with DMURS.
15. Transport: Public lighting.
16. Transport: Maximum parking provisions.
17. Transport: Compliance with Road Safety Audit.
18. Transport: Road markings and signage.
19. Transport: Construction Management Plan.
20. Surface water drainage installation.
21. Surface water drainage disposal.

22. Orderly development (mud and debris).
23. Orderly development (cleaning of spillages).
24. Repairing damage to footpaths and roads.
25. Provision of adequate sightlines.
26. Position of utilities (poles, chambers, and manholes).
27. Development contributions.

### 3.3. **Planning Authority Reports**

- 3.3.1. The Planner's Report makes reference to the previously refused application (Ref 21/40256) which was refused on the basis of the failure of the applicant to demonstrate that the development would not impact on traffic safety due to the siting of the proposed bus layby. All other matters relating to design, layout, amenity, and servicing were considered to be acceptable. The proposed development is considered by the Planning Authority to be similar to the refused application and on that basis they consider that the bus facility/traffic safety point is the single remaining outstanding issue and that the proposed development is acceptable in terms of design, layout, amenity (residential and visual), impacts on adjoining amenities, and drainage/site servicing, as they were previously assessed as such on the refused application.
- 3.3.2. Whilst the Planner's Report states that no reports are available from Traffic or the Area Engineer, reports were received from both which requested Further Information to demonstrate that the development would not impact on traffic safety and that the siting of the bus layby would not endanger public safety. A clarification was sought, requiring the submission of a Road Safety Audit and this was to the satisfaction of both departments who raised no further objections.
- 3.3.3. **Other Technical Reports**
- 3.3.4. **Area Engineer (12.01.2023 and 22.02.23):** Requested Further Information to demonstrate that the development would not impact on traffic safety and that the siting of the bus layby would not endanger public safety. Recommended referral to traffic for comment.

- 3.3.5. **Contributions (04.01.2023 and 10.03.2023):** No objections, subject to conditions regarding development contributions.
- 3.3.6. **Environment Report (21.11.2022):** No objections, subject to conditions regarding disposal of waste (construction and operational), noise, and wildlife/habitat protection during construction
- 3.3.7. **Housing (14.12.2022):** No objections, an Exemption Certificate has been granted.
- 3.3.8. **Traffic Regulation and Safety (13.01.2023, 03.03.2023, and 01.06.2023):** Requested Further Information to demonstrate that the development would not impact on traffic safety and that the siting of the bus layby would not endanger public safety. A further clarification was sought, requiring the submission of a Road Safety Audit. The relevant documents were submitted by the applicant and were considered to resolve the outstanding issues, subject to the findings of the Road Safety Audit being implemented and the conditions set out in section 3.2 above.
- 3.3.9. **Urban Roads and Street Design (28.02.2023):** No objection, subject to conditions. The conditions relate to a management company, payment of a bond, Irish Water Connection Agreement, taking in charge, and compliance with DMURS.
- 3.4. **Prescribed Bodies**
- 3.4.1. **Inland Fisheries Ireland (the appellant) (01.12.2023):** Request that Irish Water/Cork County Council [sic] signify that there is sufficient capacity in existence so that the development does not (a) overload (hydraulically or organically) existing treatment facilities, (b) result in polluting matter entering waters, and (c) cause or contribute to non-compliance with existing legislative requirements.
- 3.4.2. **Transport Infrastructure Ireland (TII) (14.12.2022):** No objections. The response confirms that the Authority will not accept claims in respect of impacts on the development as a result of the presence of the existing road or any new road which is currently in planning. TII also request that the Council have regard to Chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines in its assessment.
- 3.4.3. **Uisce Éireann (25.01.2023):** No objection. Observations made include that the developer has liaised with Uisce Éireann and that Confirmation of Feasibility has been

issued. A connection agreement will be required prior to the commencement of development.

### 3.5. Third Party Observations

3.5.1. None.

## 4.0 Planning History

### *Subject Site*

4.1.1. **Planning Authority reference 21/40256:** Permission was refused by Cork City Council in July 2021 for the construction of 5 no. dwelling houses, associated site works and demolition of existing structures (previously used as a shop) all on a site of 0.12Ha. Permission was refused for the following reason:

*The applicant has not demonstrated, to the satisfaction of the Planning Authority, that the proposed development will not impact on traffic safety. The siting of the proposed bus lay by, in close proximity to the estate entrance, would endanger public safety by reason of traffic hazard. It is considered, therefore, that the proposed development does not accord with the proper planning and sustainable development of the area.*

4.1.2. **Planning Authority reference 09/6783 and 6782:** Cork City Council granted permission in March 2010 for 2 no. dwellings and all ancillary site development works. This development was outlined in and incorporated into part of the site layout of a previous planning permission that was granted on this site for a shop under planning ref.no. 08/8196

4.1.3. **Planning Authority Reference 08/8196:** Permission was granted by Cork City Council in March 2009 for the demolition of existing dwellinghouse and garage and construction of split level shop with associated storage.

### *Adjacent Sites*

#### Lois Cara Estate -Immediately to the north of the appeal site.

4.1.4. **Planning Authority Reference 19/5416:** Extension to the duration of permission granted under 14/5866.

- 4.1.5. **ABP Reference 305758/Planning Authority Reference 19/5325:** Permission was granted by the Board in February 2020 for the construction of 31 no. dwelling houses and all ancillary site development works. The proposed development would consist of the construction of 24 no. 3 bedroom semi-detached dwelling houses and 7 no. 2 bedroom townhouses, which represents a change of plan and increase in density from the housing development permitted under Cork County Council Planning Reference 14/5866. Ancillary site development works would include a pumping station, underground surface water attenuation tank and landscaping. Access to the proposed development would be provided via the existing estate access off the L-2785 and internal road network.
- 4.1.6. **Planning Authority Reference 14/5866:** In December 2014, the City Council granted permission to construct 27 no. houses (14 no. three-bed semi-detached, 6no. four-bed semi-detached, 6 no. three-bed terraced and 1no. four-bed detached with attached crèche and associated site works including the construction of a pumping station and storage tank.
- 4.1.7. **Planning Authority Reference 08/6515:** In December 2008, Cork City Council granted permission for 12 no. dwelling houses (change in house type & layout on part of site for which planning was previously granted under planning ref.no.01/4442 (PL04.131076) & associated site works.

Sunset Ridge Hotel Site – To the north-west of the appeal site.

- 4.1.8. **Planning Authority Reference 22/41247:** Permission was granted in April 2023 for the construction of a 2-storey commercial building (medical use); 43 no. residential units in a range of heights from 2-2.5 storeys; 67 no. car parking spaces; replacement of the 2 no. existing accesses with a new access and raised table; traffic calming measures, to include a new footpath and cycle lane to the L2785 and reduced curve radii at the junction of the L2785 with the Killeens flyover (L2788); 2no. new pedestrian crossings (including 1no. pedestrian crossing permitted under reg. ref. 21/40567) and all associated site development, drainage, boundary treatments, including new front boundary stone wall with metal railing, and landscaping works.
- 4.1.9. This site has been cleared but the development has not yet commenced.

West of the appeal site on the south side of Rathpeacon Road/Sunset Place.

- 4.1.10. **Planning Authority Reference 23/41703:** Permission was granted by Cork City Council in May 2023 for the construction of 10 no. dwelling houses (change of design from that permitted under reg. ref. 21/40567) and all associated site development works.
- 4.1.11. Works have commenced to implement this permission and site services appear to have been installed.
- 4.1.12. **Planning Authority Reference 21/40567:** Permission was granted by Cork City Council in April 2022 for the construction of 10 no. dwelling houses and all associated site development works.
- 4.1.13. **Planning Authority Reference 19/4502:** Permission was granted by Cork City Council to construct 6 no. two storey semi-detached dwellings including 2 no. entrances, access roads, connections to services and all associated site works.
- 4.1.14. **Planning Authority Reference 15/5423:** Cork City Council granted permission in September 2015 for the construction of 3 no. two storey detached dwellings and all associated site works including connection to services, new boundaries, new entrance, access road and footpaths.

## 5.0 Policy Context

### Cork City Development Plan 2022-2028

- 5.1.1. The appeal site is categorised as Zone ZO 1: Sustainable Residential Neighbourhoods, the primary objective of which is to protect and provide for residential uses and amenities, local services and community, institutional, educational, and civic uses. The CDP also notes that development in this zone should generally respect the character and scale of the neighbourhood in which it is situated.
- 5.1.2. Chapter 2: Core Strategy, seeks to deliver Strategic Objective 1 of the CDP, Compact Liveable Growth, with the aim of improving quality of the life in the city. The relevant objectives of this chapter are:
- Objective 2.31: Compact Growth
  - Objective 2.32: Housing Supply



5.1.3. Chapter 3 of the CDP sets out the policies for achieving Strategic Objective 2, Delivering Homes and Communities, with the aim of delivering housing and creating and maintaining sustainable neighbourhoods and the community infrastructure needed to ensure that diverse communities all benefit from a good quality of life.

Relevant objectives of this chapter include:

- Objective 3.3: New Housing Supply
- Objective 3.4: Compact Growth
- Objective 3.5: Residential Density
- Objective 3.6: Housing Mix
- Objective 3.9: Adaptation of Existing Homes, Infill Development, and Conversion of Upper Floors

5.1.4. Chapter 4 seeks to deliver Strategic Objective 3, Transport and Mobility. The CDP notes that the projected population increase and associated economic growth planned for Cork City will result in a significant increase in the demand for travel. This demand needs to be managed and planned for carefully, to safeguard and enhance the city's attractiveness to live, work, visit and attract investment. The relevant objectives from this chapter include:

- Objective 4.1: Cork Metropolitan Area Transport Strategy
- Objective 4.4: Active Travel
- Objective 4.5: Permeability

5.1.5. Chapter 9 promotes the delivery of Strategic Objective 8, Environmental Infrastructure. This chapter recognises that the sustainable growth and management of the City's development depends on the provision of good quality infrastructure, while protecting the environment from pollution. Relevant objectives from this chapter include:

- Objective 9.1: Irish Water
- Objective 9.2: Waste Water
- Objective 9.3: SUDS
- Objective 9.5: Discharging
- Objective 9.7: Water Quality

- 5.1.6. Chapter 10: Key Growth Areas and Neighbourhood Development Sites focuses on key growth areas identified in the Core Strategy and the Growth Strategy. Where the Core Strategy and Growth Strategy provide overarching direction for city growth, this Chapter provides more area and site specific detail. The growth proposed is in line with the Core Strategy, being proportionate to the scale of the area and its ability to accommodate new development. This chapter notes that significant residential development has taken place on the fringes of Killeens and that the vision up to 2028 is to secure a small increase in the population of the settlement to retain and improve local services and facilities, to create a sense of place and character, and to strengthen infrastructure provision and public transport connections.
- 5.1.7. The existing population of the village from the most recent census data is 765 people with 258 households. New development in Killeens over the Plan period should not exceed 10% of the existing village population. This requirement is to fulfil projected population targets but also to allow new development to respect the scale, character, pattern and grain of existing development.
- 5.1.8. Objective 10.96: Hinterland Settlements sets out the following criteria:
- (i) The number of houses in any particular individual scheme should have regard to the scale and character of the existing village.
  - (ii) Subject to Objective 9.2 and 9.3, in the absence of a public wastewater treatment plant, only the development of individual dwelling units served by individual treatment systems will be considered subject to normal planning considerations. Any new dwellings with individual wastewater treatment must make provision for the connection to the public system in future and have a sustainable properly maintained private water system, unless a public supply is available. Such proposals will be assessed in line with the appropriate EPA code of practice and will have regard to any cumulative impacts on water quality.
  - (iii) Encourage new development to be designed to ensure that water resources and the natural environment are protected. Protection and enhancement of biodiversity resources within the receiving environment of the villages is also to be encouraged. Development will only be permitted where it is shown that it is compatible with the protection of sites, designated or proposed to be designated, for the protection of natural heritage.

(iv) Where possible, all development should be connected to the public water supply, the public waste water treatment system and make adequate provisions for storm water storage and disposal.

(v) Development within the core of the villages shall be designed to a high standard and reinforce the character of the existing streetscape. Where appropriate development should be in the form of small, terraced development courtyard schemes.

(vi) Residential development in other areas shall provide for small groups of houses, detached housing, serviced sites, or self-build options.

(vii) Retail and local services development should be accommodated within the core of the village and should make adequate provision for off street parking.

(viii) The development of lands closest to the village centre is proposed in the first instance, and the development of good pedestrian and amenity links with the village core/main street are considered to be an important part of any proposed scheme.

(ix) Extend footpaths and public lighting to serve the wider village and where practical, to provide for the under-grounding of utilities.

(x) Roadside development within the villages should be sited and designed to ensure that the development potential of backland sites is not compromised and that suitable vehicular and pedestrian access to these lands is retained.

(xi) Encourage additional retail and community services within the village to coincide with the needs of any future growth.

(xii) Any proposals for development within areas identified as being at risk of flooding will need to comply with the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’.

5.1.9. Chapter 11 includes the policies aimed at delivering Strategic Objective 9, Placemaking and Managing Development. This chapter sets out the Council’s guidance and priorities for development proposals. Of primary importance is securing development of the highest architectural and urban design quality that is people-centric and resilient to climate change and other challenges. Relevant objectives and sections of this chapter include:

- Objective 11.1 Sustainable Residential Development

- Objective 11.3: Housing Quality and Standards
- Objective 11.4: Daylight, Sunlight and Overshadowing
- Objective 11.5: Private Amenity Space
- Section 11.67: Design Quality
- Section 11.69: Residential Density
- Section 11.91: Quantitative Standards
- Section 11.100: Separation, Overlooking and Overbearance
- Section 11.112: Public Open Space in Housing Developments
- Section 11.139: Infill Development
- Section 11.234: Car and Bicycle Parking

## 5.2. Regional Policy

### **Regional Spatial and Economic Strategy for the Southern Region**

- 5.2.1. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

## 5.3. National Policy

### **National Planning Framework – Project Ireland 2040**

- 5.3.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements whilst Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 is to increase residential density in settlements through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 5.4. Ministerial Guidelines

- Quality Housing for Sustainable Communities, Guidelines for Planning Authorities (2007).

- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

## **5.5. Natural Heritage Designations**

- 5.5.1. The nearest European site is the Cork Harbour SPA (Reg 004030), approximately 8.3km to the south/south-west.

## **5.6. EIA Screening**

- 5.6.1. 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**

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

- 6.1.1. A Third Party Appeal has been submitted by Inland Fisheries Ireland who have also submitted a copy of the Irish Water Annual Monitoring Report to the Environmental Protection Agency for 2021, as well as an email from Irish Water responding to questions asked by the Lios Cara Residents Committee. The grounds of appeal can be summarised as follows:

- Most of the settlement of Killeens is serviced by an Irish Waste Water Treatment Plant (WWTP) which has an organic capacity of 600PE and current loading is stated as 599PE.
- The Irish Water Annual Monitoring Report notes that effluent from the plant discharges to the Blarney River and is non-compliant with Emission Limit Values (ELV) and that based on ambient monitoring results, a deterioration in

BOD and Ammonia concentrations downstream of the effluent discharge is noted.

- The Blarney River is an 'At Risk' waterbody which means it's at risk of not meeting its Water Framework objectives.
- The report states that an upgrade of the WWTP is required to meet ELVs and that there are no proposals or timeframes for an upgrade. The plant was operating at full capacity in 2021, performing poorly and impacting on receiving water quality.
- Cork City Council has since granted permission to more housing and Irish Water confirmed that a connection is feasible. However, this will add further pressure to the WWTP which is already operating at full capacity and would now be operating at 114% of capacity.
- The current application approved by Cork City Council adds yet more housing and it is proposed that sewage will be discharged to the public sewer. Irish Water again confirmed no objections, despite knowing that the WWTP is already overloaded.
- Inland Fisheries Ireland recognises the importance of the proposed development in terms of increasing housing stock but it is essential that developments are sustainable and do not result in or contribute to non-compliance with existing legislative requirements or in negative impacts on fisheries or water quality. The proposed development does not meet these criteria.
- Further information from Irish Water signifies that the current loading to the Killeens WWTP is now approximately 900PE which is in the region of 150% of capacity.
- From 10<sup>th</sup> January 2021 to June 2023, 12 non-compliance with licence notifications have been issued.

## 6.2. Applicant Response

### 6.2.1. No response.

### **6.3. Planning Authority Response**

6.3.1. No response.

### **6.4. Observations**

6.4.1. None.

### **6.5. Further Responses**

6.5.1. None.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The report from the Planning Authority notes that, in respect of the proposed development, the design, layout, amenity (residential and visual), impact on adjoining amenities and drainage/site servicing were analysed and accepted under the previous application (21/40256), which was refused on a single transport issue which has now been resolved. The Planning Authority are therefore relying on the planning assessment undertaken on the previous application, albeit this was considered against the previous 2015-2021 CDP. The Cork City Development Plan 2022-2028 is now the operative development plan for the area and, taking into account policy changes since the previous application, it is my view that issues regarding the principle of the development and design should be considered in the appeal.

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

- Principle of Development
- Design and Amenity
- Waste Water Treatment

- Appropriate Assessment

## 7.2. Principle of Development – New Issue

- 7.2.1. At the outset I would note that the development remains compliant with the CDP in terms of land use and the zoning designation. Section 10.344 states that the vision for Killeens up to 2028 is to secure a small increase in the population of the settlement to retain and improve local services and facilities, to create a sense of place and character, and to strengthen infrastructure provision and public transport connections.
- 7.2.2. The existing population of the village from the most recent census data is 765 people within 258 households. New development in Killeens over the Plan period should not exceed 10% of the existing village population. This requirement is to fulfil projected population targets but also to allow new development to respect the scale, character, pattern and grain of existing development. This 10% limit is echoed in Objective 10.96 of the CDP which also seeks to limit the development of residential to no more than 10% population growth over the lifetime of the Plan.
- 7.2.3. The proposed development would add an additional five households to the village, with a potential increase in population of 30 people. In isolation, this represents a projected increase of approximately 4%. In April 2023, Cork City Council granted permission for 43 new homes on the Sunset Ridge Hotel site which is to the north-west of the appeal site. This development would provide for approximately 102 people, equating to a population increase of approximately 13%, which exceeds the limitation on population increases for Killeens imposed by the 2022-2028 CDP.
- 7.2.4. This level of increase was accepted by the Planning Authority on the basis that the Sunset Ridge Hotel site would also be providing a commercial unit (convenience store) and that this would contribute to the provision of a neighbourhood/local centre for the village of Killeens.
- 7.2.5. Regarding the 10% population increase limit, Objective 10.96 states that that any further residential proposals must set out how developments will tie into the village and provide adequate pedestrian and cycling linkages to the village. Firstly, I would note that the proposed development is for five new homes and that this would have a modest impact on the population increase of the village. Secondly, the policy does acknowledge that further development can take place, as a result of providing adequate pedestrian and cycling linkages to the village.



7.2.6. In its current form, there are very narrow footpaths around the edge of the site onto Sunset Place and there is no bus layby, requiring buses to stop on the main carriageway. As part of the proposed development, a new bus lay by would be provided, allowing buses to pull in off of the main carriageway, in addition to improved and widened footpaths that would link to the footpaths to the west, with a new pedestrian crossing point on The Lawn, linking the site to the wider village to the west. Consequently, whilst the development would cumulatively exceed the 10% threshold set out in the CDP when considered alongside the 2023, I am satisfied that the modest population increase resulting from the proposed development would be acceptable when taking account of the benefits brought forward in terms of improved footpaths, crossings, and the new bus layby. On that basis I do not consider that the development would materially contravene the objectives of the CDP.

### 7.3. **Design and Amenity – New Issue**

7.3.1. Whilst surrounding development is generally two storeys in height, the proposed development would be three storeys when viewed from the front and two storeys when viewed from the rear, in order to take account of the change in levels across the site from north to south. I also note that no public open space would be provided although I recognise the challenges in providing public open space on a small site with the differences in site levels previously referred to. Both of these matters are considered acceptable by the Planning Authority and have not been raised either in the appeal or in observations.

7.3.2. The dwellings extend immediately to the back edge of the new footpath and do not have any defensible space at the front. When originally submitted, the new footpath had a minimum width of 2.1m and a maximum width of 2.4m. In order to address transport matters raised during the course of the application regarding junction and layby layout, this new footpath has been reduced to 1.7m at its narrowest point directly in front of proposed dwelling no. 1, and 1.8m immediately outside dwelling no. 2 at the western end of the site adjacent to the junction with The Lawn.

7.3.3. I am of the opinion that the current layout would lead to a poor standard of amenity for occupiers of these dwellings, with the ground floor rooms being subjected to disturbance and a lack of privacy due to the proximity and narrowness of the footpath immediately outside these dwellings, the nature of the area as a bus stop where people

tend to congregate when waiting for bus services to collect and drop off, and the lack of any defensible space. It is my opinion that these dwellings should be set further back from the site frontage in order to improve the quality of accommodation and internal amenity of dwellings 1 and 2 in particular.

- 7.3.4. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

#### **7.4. Waste Water Treatment**

- 7.4.1. The main substantive issue raised in the appeal relates to the capacity of the Killeens Waste Water Treatment Plant which is currently operating above capacity and is non-compliant with Emission Limit Values (ELVs) for ammonia, BOD, COD, and suspended solids. It is argued that the proposed development would place further pressure on an already overloaded WWTP, resulting in further impacts on water quality and failure to comply with licence conditions.
- 7.4.2. The appeal site and the local area is served by the Killeens WWTP which has an operating capacity of 600PE. Uisce Éireann confirmed in an email dated 16th May 2023 that the current load to Killeens WWTP is in the region of 900PE, which is 150% of current capacity. A site inspection report by Uisce Éireann in December 2021 confirms that whilst effluent monitoring results in 2021 demonstrate good improvements in ortho-phosphate emission limit value (ELV) compliance, there are serious issues with ammonia ELV non-compliance, with 11 breaches noted in 2021 alone. I note that the 43 dwellings permitted on the Sunset Ridge Hotel site and the 10 dwellings on the site directly opposite are not yet constructed and occupied and as such will not yet be connected/operational in terms of wastewater. These permitted dwellings will add additional loading to the Killeens WWTP.
- 7.4.3. Upgrades to the Killeens WWTP were announced in 2021 and this is also referred to in the CDP where the upgrade is included as part of the Small Towns and Villages Growth programme (STVGP). However, no further detail is provided in terms of project timelines or projected future capacity and whilst the Uisce Éireann website also confirms a planned upgrade to Killeens WWTP, no estimated start date is provided.
- 7.4.4. Despite Uisce Éireann raising no objection to the proposed development subject to a connection agreement, it is clear that the Killeens WWTP is significantly overloaded

and that the proposed development, whilst modest in size, would add to this issue in addition to the 53 permitted dwellings located to the east that are not yet constructed. In terms of the proposed development, I am not satisfied that this is an issue that could be appropriately dealt with by way of a condition restricting occupation of the new units until such time that the upgrade has been completed and the capacity issues have been addressed, particularly given the paucity of information confirming when the future upgrade would be commenced/completed and what the projected capacity would be. In the absence of this information and certainty regarding the upgrade/increased capacity, it would not be appropriate to approve further incremental development that would add to the loading on the WWTP.

- 7.4.5. I consider that permitting further residential development within an area that currently has significant wastewater issues without a time frame for the proposed WWTP upgrade would not be in the interest of orderly and sustainable development as the required infrastructure should be in place or at least be available before the development comes into operation. In this regard I would recommend that permission be refused on the basis that the proposal is premature pending an upgrade of the Killeens Wastewater Treatment Plan, and that to permit development would be contrary to the proper planning and sustainable development of the area.

## **7.5. Appropriate Assessment**

- 7.5.1. No Appropriate Assessment Screening Report has been submitted with the application. The nearest European site is the Cork Harbor SPA (reg 004030) which is located approximately 8.3km from the site. There are no direct hydrological links between the site and the SPA. I note the surface water would be attenuated and would drain to the existing storm sewer which runs under the public road to the front of the site.
- 7.5.2. However, wastewater from the site would be treated at the Killeens WWTP which would then discharge to the Blarney River and in turn would flow into the Shournagh River, the River Lee and onwards to Cork Harbour. The proposed development if permitted would discharge to the existing WWTP which is currently operating well in excess of its capacity. In terms of water quality impacts, there is therefore the potential for discharges from the WWTP to threaten the water quality within the SPA. Whilst I accept that there would likely be mitigating circumstances such as the dilution capacity

of the Rivers Lee and Shournagh, as well as Cork Harbour itself, in the absence of such information and without details on the upgrade of the treatment plant in terms of future capacity and projected timelines, I cannot conclude that the proposed development, in combination with other permitted development in the area, would not be likely to have significant effects on the conservation objectives of the Cork Harbour SPA.

- 7.5.3. On the basis of the information provided with the application and the appeal, and having regard to the absence of an examination of the potential effects of the development on the SPA, particularly in the context of the excess loading of the WWTP which has a hydrological connection to SPA, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects approved in the area, would not result in adverse effects on the integrity of the SPA, in view of the relevant Conservation Objectives.

## **8.0 Recommendation**

- 8.1. I recommend that the Board refuse planning permission for the following reasons.

## **9.0 Reasons and Considerations**

1. It is considered the proposed development would be premature pending future capacity upgrades at the Killeens Waste Water Treatment Plant, to which connection is proposed and the period in which the constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and the appeal and particularly having regard to the absence of an examination of the likely significant effects the proposed development would have on the conservation objectives of the Cork Harbour SPA (Reg 004030) in relation to the proposed connection to the Killeens Waste Water Treatment Plant which is deficient in capacity, significantly overloaded, and which has a hydrological connection to the SPA, the Board cannot be satisfied that the proposed development individually, or in combination with other plans and projects approved in the

local area, would not result in adverse effects on the integrity of the Cork Harbour SPA in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from considering a grant of permission for the proposed development.

3. Having regard to the siting of the proposed dwellings in close proximity to the pavement edge, the lack of a set-back or defensible space, the narrowness of the footpath immediately adjacent to dwellings 1 and 2, and the nature of the space as a bus stop where people will congregate, it is considered that the proposed dwellings would provide a poor standard of accommodation for future occupiers due to a lack of privacy and disturbance and would be contrary to the proper planning and sustainable development of the area.

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.

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Terence McLellan  
Senior Planning Inspector

4<sup>th</sup> April 2024

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317376-23		
<b>Proposed Development Summary</b>	Construction of 5 houses.		
<b>Development Address</b>	Rathpeacon, Killeens, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X	Class 10 (b)(i) Construction of more than 500 dwelling units	Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:**

**Date:**

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP 317376-23	
<b>Proposed Development Summary</b>	Construction of 5 houses.	
<b>Development Address</b>	Rathpeacon , Killeens , Co. Cork	
<p><b>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.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The development comprises the construction of five dwellings on zoned land where residential use is permitted in principle. The surrounding area is predominantly residential in nature and there are new housing developments immediately bounding the site to the north as well as permitted residential developments to the west. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants. Localised construction impacts will be temporary.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The development would be for five new homes and would generally be consistent with the scale of surrounding developments and would not be exceptional in the context of the existing environment.</p>	<p>No</p> <p>No</p>



<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The proposed development would adjoin an existing estate and there are permitted residential developments to the west.</p>	<p>No</p>
<p><b>Location of the Development</b></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 site has a hydrological connection to the Cork Harbour SPA via the Killeens WWTP. Appropriate Assessment was not screened out due to the potential impacts as a result of the overloaded WWTP, please refer to section 7.5 of this report.</p> <p>The site is zoned for residential use in the CDP which itself was subject to SEA &amp; AA. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No</p> <p>No</p>
<p><b>Conclusion</b></p>		
<p>EIA not required.</p>		

**Inspector:**

**Date:**