



An
Bord
Pleanála

Inspector's Report

ABP-319840-24

Development

Five-bedroom dormer bungalow dwelling house with pitched roof over; new foul sewer treatment system and percolation area and widening of existing driveway and entrance from public road.

Location

Athgoe North, Newcastle, County Dublin.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD24A/0068

Applicant(s)

John Kenny & Alienor Conlon Kenny.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First

Appellant(s)

John Kenny & Alienor Conlon Kenny.

Observer(s)

None.

Date of Site Inspection

27/08/2024

Inspector

Alan Di Lucia

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Form 2: EIA Preliminary Examination
Appropriate Assessment Screening Report

1.0 Site Location and Description

- 1.1. The site is located in a rural area, circa 1 km southwest of Newcastle village, 2 km north of the N7. There is a significant degree of single dwellings on the road network in the vicinity, but fewer along this road. The road network serving the site is narrow. The site is located in the Athgoe/Saggart upland area but on the lower end near Newcastle.
- 1.2. The field is relatively level. The roadside and rear boundary is delineated by hedgerows. There is an existing field access at the southwest end of the roadside frontage. The site area is stated as 0.6ha. There is a private lane to the rear, which the site also accesses. The site is notable for the circular stone piers at the field entrance.

2.0 Proposed Development

- 2.1. The proposed development is for a five-bedroom pitch roof dormer bungalow dwelling house with a stated area of 315 square metres, served by an effluent treatment system. (The information on file relating to the proposed wastewater treatment system dates back to 2020, which indicates that a 1.6m trial hole was excavated and 'T' of 25 and 'P' of 24 was recorded. A package wastewater treatment system and polishing filter is proposed. Water supply is from the public mains. The existing access is to be widened.
- 2.2. It is noted that no changes have been made to the proposed development from that refused under APB-308910-20 and APB-311956-21. (Refer to Planning History in Section 4.0 of this report)

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a notification of decision to refuse planning permission for the following reasons: (Note: Refusal Reason 2 and 5 materially contravene the objectives of the development plan.)

1. The proposed site is located in an area zoned Objective 'RU' in the South Dublin County Development Plan 2022-2028. Policy H18 states that 'New or replacement dwellings within areas designated Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) will only be permitted in exceptional circumstances. On the basis of the information submitted, the applicants have not provided adequate evidence of 'exceptional circumstances' that require them to live in this area, external to a built-up settlement. The applicants have not adequately demonstrated how their current housing needs cannot be facilitated in the current dwelling that they reside in on the family land holding or within existing settlements such as Newcastle village. It is therefore considered that the proposed development would be contrary to the provisions of the South Dublin County Development Plan 2022-2028 and would contravene the zoning objective for the area and, as such would be contrary to the proper planning and sustainable development of the area.
2. Housing Policy H16 'Management of Single Dwellings in Rural Areas', as set out in the South Dublin County Development Plan 2022-2028 states to 'Restrict the spread of urban generated dwellings in the Rural 'RU', Dublin Mountains 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements in line with the Settlement Hierarchy.' The applicants have not provided sufficient justification for setting aside of this policy in this instance. Taken in conjunction with existing residential development in the area, the proposed dwelling would contribute to excessive development in a rural area lacking certain public services and community facilities, served by a substandard road network to accommodate increased development. As such, the proposed development would materially contravene the objectives of the County Development Plan and would lead to demands for the uneconomic provision of further public services and facilities in this rural area and would therefore be contrary to the proper planning and sustainable development of the area.
3. The site is in the Dublin Metropolitan Area, as outlined in the Regional Spatial and Economic Strategy 2019-2031 (RSES) and the Dublin Metropolitan Area Spatial Plan. The Settlement Strategy for the Eastern & Midlands Region aims

to support local policies that protect rural economies, valuable agricultural lands, and the character of the countryside. Local Authorities are required to manage urban growth in rural areas by ensuring that single houses in the countryside are based on a clear economic or social need and comply with statutory guidelines. The strategy also supports the consolidation of towns and villages to ensure sustainable development. Therefore, the proposed development would lead to more one-off housing in the Dublin Metropolitan Area.

4. The Dublin Metropolitan Area Spatial Plan (MASP), part of the Regional Economic and Spatial Strategy 2019-231, aims to ensure future development supports sustainable travel patterns. The proposed development would represent the proliferation of further one-off-rural housing which could prejudice the policy objectives of the Dublin MASP
5. The proposed development is located in an area zoned 'RU' 'To protect and improve rural amenity and to provide for the development of agriculture.' Section 6.9.7. of the South Dublin County Development Plan 2022-2028 states that dwellings in rural areas should respond appropriately to its surrounding rural, mountain and/or river context, the applicants have not provided justification for location of the dwelling at this location in the Athgoe and Saggart Hills Landscape Character Area and would create ribbon development and be contrary to Policy H23 Rural Housing and Extension Design. Therefore, it is considered that the proposed development would be contrary to the provisions of the South Dublin County Development Plan 2022-2028 and would materially contravene the zoning objective for the area and contrary to the proper planning and sustainable development of the area.
6. The proposed development would be located on a substandard rural road network which is narrow in width, has poor vertical and horizontal alignment, lacks pedestrian, public lighting and drainage facilities. The proposed development, therefore, would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area."

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the following planning issues. (Note no further information was requested by the Planning Authority)

- Four previous planning applications for similar development proposals have been refused on the subject site. The most recent decision to refuse was upheld by An Bord Pleanála. The previous refusals were assessed under the previous development plan and the current proposal is assessed under the South Dublin County Development Plan 2022-2028 [SDCDP]
- Zoning of the site is RU and outlines the relevant sections of the SDCDP in relation to this zoning objective.
- The applicants have demonstrated close family ties to the area but have not adequately demonstrated exceptional need to live in the area based on either full-time employment or medical needs.
- The applicants have not demonstrated how their current housing needs cannot be facilitated in the current dwelling house they reside in on the family land holding or within existing settlements.
- The proposal represents unsustainable urban generated housing in a rural area under urban influence
- Notes that a report from Roads Department considered that access at this location due to restrictive sight visibility along a narrow road would endanger public safety by reason of traffic hazard

The Planner's Report did not consider that either Appropriate Assessment or Environmental Impact Assessment was required.

3.2.2. Other Technical Reports

- Roads Department – recommend refusal due to substandard road condition and increase in traffic would endanger public safety by reason of traffic hazard due to condition of road and inadequate visibility.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

4.1. On Appeal Site

ABP-311956-21 (SD21A/0237)

Application for a dwelling house by the same applicants refused permission by the Board for the following reason:

“Having regard to the location of the site within an area zoned ‘RU’ in the current South Dublin County Development Plan, 2016-2022, where policy H22 restricts new or replacement dwellings on the basis of a genuine rural generated need and evidence of exceptional circumstances and, having regard to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government, in April 2005, Objective RPO 4.80 of the Eastern and Midland Regional Spatial and Economic Strategy and National Policy Objective 19 of the National Planning Framework (2018) which seek to manage the growth of areas that are under strong urban influence to avoid overdevelopment and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicants have not demonstrated exceptional circumstances that would justify the grant of planning permission for a dwelling at this rural location as required by Policy H22 Objective 1 of the South Dublin County Development Plan 2016-2022 and, therefore, would not be in accordance with the National Policy Objective 19 or Regional Spatial and Economic Strategy RPO 4.80. The proposed development, in the absence of a demonstrable economic or social need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services

and infrastructure. The proposed development, would therefore be contrary to the proper planning and sustainable development of the area.”

ABP-208910-20 (SD20A/0245) – application for the same proposed development for the same applicants refused permission for the reasons as per ABP-311956-21 as outlined above.

SD19A/0155 and SD18A/0127 – same development refused for similar 7 no. reasons to Planning Authority’s reasons to refuse.

4.2. In the Vicinity of Appeal Site

Relevant planning applications in the area since the adoption of the South Dublin County Development Plan 2022-2028.

Both applications are on the same site, 250m Northeast of current appeal site, by different applicants to the application currently under appeal.

SD23A/0006

Permission refused for 4 no bed dormer, new site entrance and septic tank with percolation area and all associated site works and retention for existing horse boxes for 5 no reasons relating to (1) National and Regional Policy, (2) Rural Housing Policy, (3) Scale and Design, (4) Traffic Hazard (5) Potential Unauthorised Development.

ABP318671-23 (SD23A/0235)

Application for a house, site entrance, wastewater treatment system and retention of horse stables (Site 250m to Northeast) refused permission for similar reasons as per ABP-311956-21 outlined above.

5.0 Policy Context

5.1. National Policy

Project Ireland 2040 – The National Planning Framework (NPF)

- 5.1.1. National Policy Objective 19 states that, 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.

5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005) (Section 28 Guidelines)

- 5.2.1. The Guidelines refer to persons considered as constituting those with rural generated housing needs being persons who are an intrinsic part of the rural community or working full-time or part-time in rural areas. The Guidelines refer to persons who are an intrinsic part of the community as having '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.
- 5.2.2. Urban Generated Housing is defined as '*Housing in rural locations sought by persons living and working in urban areas, including second homes.*'
- 5.2.3. Rural generated housing should be defined in development plans. Categories to include Persons who are an intrinsic part of the rural community *and states that '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 home near their family place of residence. Returning emigrants who lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire, should also be accommodated.'*

5.3. **Circular SP 5/08**

The Circular relates to rural housing policies and local need criteria in plans to ensure conformity with Articles 43 and 56 (Freedom of Establishment and Free Movement of Capital) of the European Community Treaty. The circular aims to clarify how the Sustainable Rural Housing Guidelines should be applied to ensure that local need criteria, policies and practices conform with the Articles of the EC Treaty. The circular details the need criteria to be included with development plans with the overarching principle of having a social or economic link to the area.

5.4. **Circular PL 2/2017**

- 5.4.1. The Circular relates to the Sustainable Rural Housing Guidelines for Planning Authorities 2005 and advises that the 2005 guidelines remain in place until the NPF is published and that a working group recommends changes to the guidelines.

5.5. **Regional Policy**

Regional Spatial Economic Strategy (RSES) for the Eastern and Midland Region 2019-2031

- 5.5.1. RPO 4.8 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.

5.6. **Development Plan**

South Dublin County Development Plan 2022-2028 [SDCDP] is the statutory plan for the Area.

Policy CS11: Rural Areas recognise that the rural area of South Dublin County is an area under strong urban influence for housing and restricts the spread of dwellings in the Rural ‘RU’, Dublin Mountain ‘HA-DM’, Liffey Valley ‘HA-LV’ and Dodder Valley

'HA-DV' zones based on the criteria set out in the Rural Settlement Strategy contained within Chapter 6: Housing.

- 5.6.1. The subject site is zoned Objective RU for which it is an objective *'To protect and improve rural amenity and to provide for the development of agriculture'*.

Residential Development is open to consideration, in accordance with Council policy for residential development in rural areas.

- 5.6.2. Policy H16: Management of Single Dwellings in Rural Areas

'Restrict the spread of urban generated dwellings in the Rural "RU", Dublin Mountain 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements in line with the Settlement Hierarchy'

Section 6.9.1 Defines

Rural generated housing arises where the applicant has close family links to the rural community and/or the applicant works in a type of employment intrinsic to the rural economy, which requires the applicant to live in the rural area to be close to their rural based employment. In line with the Sustainable Rural Housing Guidelines, the Council will consider rural housing for persons with demonstrated exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – where a person is required to live close to family support or in a particular environment.

Urban Generated Housing arises where the applicant has no indigenous links to the rural area, currently lives and works in the urban area and wishes to live in the rural area.

- 5.6.3. Policy H17: Rural Housing Policy and Local Need Criteria considers rural housing for persons who are "an intrinsic part of the rural community" or "working full-time or part-time in rural areas" as described under Section 3.2.3 (Rural generated housing) of the Sustainable Rural Housing Guidelines DEHLG (2005), Circular SP 5/08 Rural Housing Policies and PL 2/2017 Local Need Criteria in Development Plans: Conformity with Articles 43 and 56 (Freedom of Establishment and Free Movement of Capital) of the European Community Treaty.

H17 Objective 2: To consider persons for a rural house in the RU zone on the basis of their being an intrinsic part of the rural community where such persons have

grown up or spent substantial periods of their lives, (12 years), living in the area or have moved away and who now wish to return to reside near to, or to care for, immediate family members and are seeking to build on the family landholding. Immediate family members are defined as mother, father, son, daughter, brother or sister.

- 5.6.4. Policy H18: Rural Housing in RU Zone states that new or replacement dwellings within areas designated within Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) will only be permitted in exceptional circumstances.

H18 Objective 1: New or replacement dwellings within areas designated with Zoning Objective "RU" (to protect and improve rural amenity and to provide for the development of agriculture) will only be permitted in the following exceptional circumstances:

- The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community)
- or
- The applicant has close family ties with the rural community.

The above shall also be considered in line with criteria set out under Chapter 12 Implementation and Monitoring.

H18 Objective 2: To recognise that a person may have exceptional health circumstances where it is required that they live close to family support or in a particular environment. Such circumstances must be clearly supported by relevant documentation from a registered medical practitioner and a disability organisation and will be subject to criteria set out under Chapter 12 Implementation and Monitoring

- 5.6.5. Policy H23: Rural Housing and Extension Design states that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.

H23 Objective 1 states that all new rural housing and extensions within areas designated within Zoning Objectives Rural (RU), Dublin Mountain (HA-DM), Liffey Valley (HA-LV) and Dodder Valley (HA-DV):

- Is designed and sited to minimise impact on the landscape including views and prospects of natural beauty or interest or on the amenities of places and features of natural beauty or interest including natural and built heritage features; and
- Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and
- Is designed and sited to minimise impact on the site's natural contours and natural drainage features; and retains and reinstates (where in exceptional circumstance retention cannot be achieved) traditional roadside and field boundaries; and
- Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls; and
- Would comply with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent <10) 2021, except where planning permission was granted prior to 7th June 2021 in which case the EPA's Code of Practice Wastewater Treatment Systems Serving Single Houses 2009 applies and
- Would not create or exacerbate ribbon or haphazard forms of development.

5.6.6. Section 12.6.9 Rural Housing, sets out the policy and objectives to meet rural housing need that will be considered for housing on lands that are designated with Zoning Objective 'RU', 'HA-DM', 'HA-LV' and 'HA-DV'.

Applications for residential development will be assessed, on a case-by-case basis, and must establish:

- A genuine need to reside in proximity to their employment (such employment being related to the rural community)
- or

That the applicant has close family ties with the rural community.

Applicants must not have already been granted planning permission for a new rural dwelling and must clearly demonstrate compliance with the above through the submission of the following information:

- Documentary evidence to show how the applicant complies with rural housing policy.
- 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.
- How their existing or proposed business contributes to and enhances the rural area supported by evidence of investment.
- A rationale clearly detailing why a family flat is not a suitable alternative.
- A site suitability report in relation to wastewater treatment

Note: The above list is non-exhaustive, and each application will be examined on a case-by-case basis.

The Council will consider rural housing for persons with demonstrated exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – where a person is clearly required to live close to family support or in a particular environment.

- 5.6.7. Section 6.8.3 of the SDCCP defines Family Flats as '*a temporary subdivision or extension of an existing single dwelling unit to provide semi-independent accommodation for an immediate family member (older parent or other dependent).*'

5.7. Natural Heritage Designations

No natural heritage designations were identified as being located within a potential zone of influence of the proposed development.

5.8. EIA Screening

The proposed development is of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(i) construction of more than 500 dwelling units. However, as the proposed development comprises a single dwelling house, it is significantly below the 500-unit threshold limit. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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.

(Refer to Form 1 EIA Preliminary Screening appended to this report)

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Both previously appealed applications were assessed under the 2016-2022 Development Plan and refused by the Planning Authority for six reasons. These reasons were considered in the previous appeals to An Bord Pleanála and most did not stand up to examination.
- The current SDCCDP Policy H18 on exceptional circumstances differs from the previous plan. Both applicants have strong family ties to the area. Alienor raised in the family house 200m from subject site at Athgoe and John in the rural area of Saggart and works part time on a neighbouring farm in the area
- An elected member queried the definition of exceptional circumstances, with the response from the Planning Authority quoting relevant SDCCDP sections.
- Applicants must show a genuine need to live near their employment or have close family ties to the rural community. Previous assessments confirmed family ties, but exceptional circumstances were not defined under the

previous development plan but are now clearly defined under the current SDCDP.

- The Planning Authority have not considered the exceptional circumstances of the applicant's son, in relation to objective 2 H18 of the SDCDP. The applicants submitted medical evaluations, which highlight the need for a stable, supportive environment and specialised interventions. The applicants' parents provide crucial family support in the care of the applicant's son and immediate family, who live in the existing family residence within 200m of the subject site which is connected by a private laneway to the rear of the subject site.
- The rural setting meets the applicants' specific requirements better than urban options.
- The appellants identified nine houses for sale in the area and all do not meet the applicants' needs for space to provide a sensory room. Eight 3-beds units have limited space to provide for the needs of their son. One 4-bed rural house over 5km from current location, not suitable due to distance from their support network and priced out for consideration.
- The proposed site could provide facilities like a sensory garden, which are not available nearby. Additional care requirements for the applicant's parents are also considered.
- Proposal is for a rural generated house, not urban generated as they have demonstrated a clear social need to live in the area, based on family ties, employment and their sons care needs, as well as the current and future needs of their families.
- The level of development in the South County Dublin rural area is well below projected targets. A single dwelling will not impact the sustainable development goals outlined in the SDCDP.
- The proposed development is significantly removed from any planned greenways or cycleways. If the ongoing urban development in Newcastle does not interfere with these plans, neither will their proposed house.

- The proposed development does not contribute to ribbon development as defined in the Sustainable Rural Housing Guidelines, the house design and existing hedgerows ensures that it blends with the rural landscape.
- There will be no additional traffic as they already use the road for their current residence. The entrance has adequate sightlines and meets safety standards.

6.2. Planning Authority Response

The Planning Authority Confirms its decision. The issues raised in the appeal have been covered in the Chief Executive Order.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Planning Authority's 1st Reason to Refuse Planning Permission
- Planning Authority's 2nd Reason to Refuse Planning Permission
- Planning Authority's 5th Reason to Refuse Planning Permission
- Material Contravention
- Compliance with Regional Settlement Policy
- Access and traffic
- Other issues

7.1. Principle of Development.

- 7.1.1. Under the provisions of the South Dublin County Development Plan 2022-2028 (SDCDP) the site is wholly contained within an area zoned Objective RU where the objective is to protect and improve rural amenity and to provide for the development of agriculture and where agriculture is permitted in principle and residential development is open for consideration in accordance with Council policy for residential development in rural areas. Accordingly, the development of a house at

this location is acceptable in principle subject to the acceptance or otherwise of site specifics / other policies and objectives within the SDCDP and government guidance.

I consider that the Planning Authority's 1st, 2nd and 5th reasons for refusal are interrelated in terms of references to local settlement policies as set out in the SDCDP and these are addressed in the following sections.

7.2. Planning Authority's 1st Reason to Refuse Planning Permission.

- 7.2.1. The Planning Authority's 1st reason to refuse planning permission primarily references zoning objective 'RU' of the SDCDP and stating that on the basis of the information submitted with the planning application, the appellants have not provided adequate evidence of 'exceptional circumstances' that require them to live in this area, external to a built-up settlement. The refusal also states that the appellants have not demonstrated how their current needs cannot be facilitated in the current dwelling in which they reside or on the family landholding or within existing settlements such as Newcastle Village. The refusal reason states that, the proposed development is contrary to the provisions of the SDCDP and would contravene the zoning objective for the area.
- 7.2.2. The site is located in an area zoned Rural 'RU'. Policy CS11 of the SDCDP states that this location is considered an area under strong urban influence for housing and to restrict the spread of dwellings in these zones based on the criteria set out in the Rural Settlement Strategy.
- 7.2.3. The 'RU' zoning objective of the SDCDP states that it is an objective to 'protect and improve rural amenity and to provide for the development of agriculture'. Residential development is open for consideration, in accordance with rural housing policy, which aligns with the Sustainable Rural Housing Guidelines. Policy H16 and Policy H17 considers rural generated housing in the 'RU' zone, where an applicant can demonstrate close family ties to the area or work in a type of employment intrinsic to the rural economy or will consider housing for persons with demonstratable exceptional health circumstances.
- 7.2.4. H17 Objective 2 of the SDCDP considers persons for a rural house in the RU zone on the basis of them being an intrinsic part of the rural community where such persons have grown up or spent a substantial period of their lives (12 years), living in

the area. The information submitted with the planning application and the grounds of appeal demonstrate that Mrs. Conlon Kenny (one of the appellants) grew up living in the rural area in which they proposed to build. Details on file confirm that she grew up in the family home, less than 200m from the proposed site. Birth certificate records submitted with the planning application indicate that the address of the appellant's parents' house is the address in which they currently reside. I conclude from this documentation that the appellant grew up in the family house at this location. It is my opinion that the appellant has demonstrated that they are an intrinsic part of the rural community having grown up at this rural location, therefore, complying with the provisions of H17 Objective 2 of the SDCDP. I note that the appellant currently resides in the family home at this location.

7.2.5. H17 Objective 2 of the SDCDP also states that in addition to the above that the appellants are seeking to build on the family landholding. Details on file state that they are proposing to build on the family landholding, and the lands will soon be transferred to them. Section 12.9.9 of the SDCDP details the information required to demonstrate compliance with the policies and objectives relating to rural housing, in this regard the SDCDP requires the applicants to submit a map showing all existing family-owned property and lands. The planning application includes a map showing all family-owned property on either side of the subject site. Therefore, I am satisfied that the subject site forms part of the family landholding.

7.2.6. I am satisfied based on the information provided that the applicant Mrs Conlon Kenny complies with the provisions of H17 objective 2 of the SDCDP. I note that Mr Conlon's family ties are in Saggart which is in proximity of the subject site, but I consider his social ties to in Saggart

7.2.7. H18 Objective 1 of the SDCSP defines the exceptional circumstances that permits new or replacement dwellings within the 'RU' zoning objective. I note that exceptional circumstances were not clearly defined in the previous County Development Plan. Under the SDCDP Exceptional Circumstances are defined as follows: That "*The applicant can establish a genuine need to reside in proximity to their employment*" or "*The Applicant has close family ties with the rural community.*" In my opinion the appellant Mrs Conlon Kenny has demonstrated family ties to this area, as the family home is 200m away, where she has lived and grew up and currently resides with her family. Therefore, I am satisfied that Mrs Conlon Kenny

complies with the provisions H18 Objective of the SDCDP as she has demonstrated close family ties to the rural area within which she proposes to build a dwelling house.

7.2.8. H18 Objective 2 of the SDCDP recognises that a person may have exceptional health circumstances where it is required that they live close to family support or in a particular environment. I note that the appellants have submitted substantial information regarding the health circumstances of their son, including medical reports, occupational assessment reports and information relating to the pros and cons of urban and rural living. Whilst I recognise the needs from a health perspective, the information provided indicates that a rural location would be more desirable and beneficial, but not exceptional. Therefore, I am not satisfied that exceptional health circumstances have been demonstrated to permit a rural house in this instance. In this regard I do not consider that the applicants satisfy the provisions of H18 Objective 2 of the SDCDP.

7.2.9. The appellants have outlined how they consider that their current housing needs cannot be met within their current place of residence. The appellants are a family of five currently living in the appellants parents' house with the appellants parents and two brothers, approximately 200m from the subject site. The existing house is a three-bed dormer type house and is not designed to accommodate the number of people currently residing in the family home. The appellants have examined all housing units for sale in the area, both rural and urban, at the time of making the application and detailed the reasons for not considering these in terms of providing suitable house for their family needs. The appellants require a four-bed unit in order to provide a sensory room for their son, the review indicated mainly three bed units for sale within immediate vicinity. One four bed unit was identified which was over 5km from their current location and was not considered due to distance from family support and the selling price of the unit. I am satisfied, based on the information provided by the appellants have demonstrated that their current housing needs cannot be facilitated in the current dwelling house in which they reside or within the nearby settlement of Newcastle.

7.2.10. I consider that, based on the above assessment, the appellants comply with the provisions of the zoning objective 'RU' of the SDCDP, in terms of demonstrating their 'Exceptional Circumstances' as set out in Section 6.9 of the SDCDP. Therefore, I

conclude that the proposed development would not contravene the zoning objective for the area.

7.3. Planning Authority's 2nd Reason to Refuse Planning Permission.

- 7.3.1. The Planning Authority's 2nd reason to refuse planning permission has two distinct elements. The first element relates to Housing Policy 16 of the SDCDP which stated that *'Management of Single Dwellings in Rural Areas', as set out in the South Dublin County Development Plan 2022-2028 states to 'Restrict the spread of urban generated dwellings in the Rural 'RU', Dublin Mountains 'HA-DM', Liffey Valley 'HA-LV' and Dodder Valley 'HA-DV' zones and to focus such housing into existing settlements in line with the Settlement Hierarchy.'* and that the applicants have not provided sufficient justification for setting aside this policy in this instance.
- 7.3.2. Housing Policy 16 specifically relates to Urban Generated Housing, which is defined in the SDCDP as housing where the applicant has no indigenous links to the rural area, currently lives and works in the urban area and wishes to live in the rural area. As outlined in Section 7.3.4 of this report the appellants currently live in the rural area approximately 200m to the northeast of the subject site in the appellants parents' house, within which the appellant has spent a substantial period of her life. I consider that the appellant's housing need is rural generated and not urban generated as set out in the SDCDP and therefore, I conclude that Housing Policy 16 is not applicable in this instance.
- 7.3.3. The second element of the planning Authority's reason to refuse states that *'Taken in conjunction with existing residential development in the area, the proposed dwelling would contribute to excessive development in a rural area lacking certain public services and community facilities, served by a substandard road network to accommodate increased development. As such, the proposed development would materially contravene the objectives of the County Development Plan and would lead to demands for the uneconomic provision of further public services and facilities in this rural area and would therefore be contrary to the proper planning and sustainable development of the area.'*
- 7.3.4. I note that the reason to refuse states that the proposed development would materially contravene the objectives of the County Development Plan however the reason does not state the specific objectives the proposed development materially

contravenes. The reason to refuse references Policy H16 Management of Single housing in Rural Areas, however there are no specific objectives directly related to this policy. The Planning Authority's assessment focuses on the policies and objectives in Section 6.9 Rural Housing Strategy of the SDCDP as outlined in Section 5.6 of this report. I also note that fifth reason to refuse, references Section 6.9.7 of the SDCDP, in particular to Policy H23 Rural Housing and Extension Design, the reason to refuse states that the proposed development contravenes the objectives of the SDCDP. Therefore, I consider that the material contravention relates to the objectives of Section 6.9 of the SDCDP except for the objectives under Policy H23 as outlined above.

- 7.3.5. H17 Objective 2 considers persons for a rural house in the RU zone on the basis of their being an intrinsic part of the rural community subject to criteria listed. I have assessed how the proposed development complies with the provisions of H17 Objective 2 in Sections 7.3.4 and 7.3.5 of this report and concluded that the appellant Mrs Conlon Kenny, based on the information on file is an intrinsic part of the rural community in which they are proposing to build.
- 7.3.6. H18 objective 1 states that new dwellings within areas designated with Zoning Objective 'RU' will only be permitted if the appellants meet with the exceptional circumstances defined under this objective. The appellant Ms. Conlon Kenny has close family ties with the rural community as she currently resides with her parents in the family home 200m from the subject site, and they have also demonstrated that family members reside in the existing residential properties either side of the subject site. Therefore, I consider that the appellant has close family ties with the rural community within which they propose to build a family home.
- 7.3.7. H18 Objective 2 recognises that a person may have exceptional health circumstances where it is required that they live close to family support or in a particular environment. I assessed H18 Objective 2 in section 7.3.8 of this report and concluded that the applicants have not adequately demonstrated exceptional health circumstances to satisfy the provisions of H18 Objective 2 of the SDCDP.
- 7.3.8. Both H18 Objective 1 and Objective 2 includes the following text: '*The above will be considered in line with criteria set out under Chapter 12: Implementation and Monitoring.*' Section 12.6.9 Rural Housing, sets out the policy and objectives to meet

rural housing need that will be considered for housing on lands that are designated with Zoning Objective 'RU', 'HA-DM', 'HA-LV' and 'HA-DV'.

7.3.9. Section 12.6.9 of the SDCDP states that applications for residential development will be assessed, on a case-by-case basis, and must establish:

- A genuine need to reside in proximity to their employment (such employment being related to the rural community)

or

That the applicant has close family ties with the rural community.

Section 7.3 of this report assessed the appellants close family ties with the rural community as the one of the appellants, grew up in the parent's house in which they currently reside.

7.3.10. Section 12.6.9 of the SDCDP states that applicants must not have already been granted planning permission for a new rural dwelling and must clearly demonstrate compliance with the above through the submission of the following information:

- Documentary evidence to show how the applicant complies with rural housing policy.
- 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.
- How their existing or proposed business contributes to and enhances the rural area supported by evidence of investment.
- A rationale clearly detailing why a family flat is not a suitable alternative.
- A site suitability report in relation to wastewater treatment

The appellants have submitted documentary evidence that demonstrates compliance with rural housing policy. This has been assessed in Sections 7.3 and 7.4 of this report. The appellants have included a map showing family-owned property in the area. The rationale for the particular site and justification for an additional dwelling has been demonstrated by the appellant and assessed in

Sections 7.3.and 7.4 of this report. The appellant's rural housing need is based on their social links to the area and not on an economic justification. Section 6.8.3 of the SDCDP provides a definition for a family flat as providing semi-independent accommodation for an immediate family member. The appellant's housing need does not fall within the scope of a family flat as defined by the SDCDP as the appellants housing need to accommodate their family unit and not an individual. A site suitability report has been submitted and is assessed in Section 7.9.1 of this report.

7.3.11. I have examined and assessed the proposed development as it relates to the 'Rural Housing Strategy objectives of Section 6.9 Rural Housing Strategy of the South Dublin County Development Plan 2022-2028. I conclude that the appellants have demonstrated their compliance with the rural housing strategy and associated objectives of the SDCDP.

7.3.12. I note that the Planning Authority's reason for refusal states that the proposed development materially contravenes the objectives for the South Dublin County Development Plan 2022-2028. These objectives refer to the consideration of rural housing for persons who are an intrinsic part of the rural community. Based on the above assessment, it is my view, the use of the term 'materially contravene' is an obvious erroneous interpretation by the Planning Authority of the rural housing strategy as set out in Section 6.9 of the South Dublin County Development Plan 2022-2028. The Board should not, therefore consider itself constrained by Section 37(2) of the Planning and Development Act 2000, as amended. However, should the Board consider that the proposed development materially contravenes the SDCDP refer to Section 7.6 of this report below.

7.4. Planning Authority's 5^h Reason to Refuse Planning Permission.

7.4.1. The Planning Authority's 5th reason to refuse planning permission has two distinct elements. The first element states that "The proposed development is located in an area zoned 'RU' 'To protect and improve rural amenity and to provide for the development of agriculture.' Section 6.9.7. of the South Dublin County Development Plan 2022-2028 states that dwellings in rural areas should respond appropriately to its surrounding rural, mountain and/or river context and the applicants have not provided sufficient justification for the location of a dwelling in the Athgoe and

Saggart Hills Landscape Character Area and would create ribbon development and be contrary to Policy H23 Rural Housing and Extension Design. Therefore, it is considered that the proposed development would be contrary to the provisions of the South Dublin County Development Plan 2022-2028”

- 7.4.2. H23 Objective 1 of the SDCDP provides design criteria for new residential developments within the ‘RU’ Zoning Objective. The following examines the proposed development in relation to the design criteria provided in the SDCDP.
- 7.4.3. The site is within the Athgoe and Saggart Hills Landscape character area as defined in the SDCDP, which is designated as having a medium to high landscape sensitivity. There are no views and prospects listed for protection at this location. The site is relatively level with hedgerows to the roadside and rear boundaries. There is an existing access to the site and minimal hedgerow removal is required to achieve the required site visibility at the proposed access location.
- 7.4.4. The proposed house design is single storey in design with accommodation in the roof space, with velux type windows predominant and the incorporation of a dormer type window to the rear elevation of the house. The house types at this location are mainly single storey in design with accommodation within the roof space, but I do note an existing dormer window house type is located to the southwest of the site. Subject to appropriate landscaping I consider that the proposed house design can be satisfactorily assimilated into the site and would not detract from the visual amenities of the area.
- 7.4.5. The Rural Housing Guidelines define ribbon development as development that does not cause or result in five or more houses in any given 250m stretch of road frontage. From inspection of the site, the addition of a house at this location would result in a total of 4 no houses over a 250m stretch of road frontage. Therefore, I conclude that the proposed development will not give rise to ribbon development at this location.
- 7.4.6. I am satisfied that the proposed development complies with the provisions of the EPA’s Code of Practice for Domestic Wastewater Treatment Systems. (Refer to Section 7.9.1 of this report below.
- 7.4.7. I am satisfied, based on the above analysis, that the proposed development complies with the criteria for the siting and design of new rural housing within the RU

zoning objective as detailed in H23 Objective 1 of the SDCDP for the development of new rural houses within the RU zoning objective. Therefore, I consider that the proposed development would not be contrary to the provisions of the South Dublin County Development Plan 2022-2028.

- 7.4.8. The second element of the refusal states that the proposed development '*would materially contrive the zoning objective for the area and contrary to the proper planning and sustainable development of the area*'. The site is located in an area zoned Rural 'RU', Policy CS11 of the SDCDP states that this location is considered an area under strong urban influence for housing and to restrict the spread of dwellings in these zones based on the criteria set out in the Rural Settlement Strategy. I have examined and assessed the proposed development in the context of the provisions of the South Dublin County Development Plan 2022-2028 as it relates to the 'RU' zoning objectives (refer to Sections 7.3, 7.4 and 7.5 of this report above) of the South Dublin County Development Plan 2022-2028. I have concluded that the appellant has demonstrated their compliance with the zoning objectives of the SDCDP.
- 7.4.9. I note that the Planning Authority's reason for refusal states that the proposed development materially contravenes the zoning objective for the area. This zoning objective refers to the exceptional circumstances that will permit the development of new dwellings within areas designated with Zoning Objective 'RU' and to ensure that any new houses are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape. It is my view, the use of the term 'materially contravene' is an erroneous interpretation by the Planning Authority of the objectives of the rural housing strategy as set out in Section 6.9 of the South Dublin County Development Plan 2022-2028. For this reason the Board should not, therefore consider itself constrained by Section 37(2) of the Planning and Development Act 2000, as amended. However, should the Board consider that the proposed development materially contravenes the SDCDP refer to Section 7.6 of this report below.

7.5. Material Contravention

- 7.5.1. The Planning Authority has decided to refuse planning permission on the grounds that the proposed development materially contravenes the objectives of the South

Dublin County Development Plan 2022-2028 and that the proposed development materially contravenes the zoning objective for the area. Should the Board consider that such material contravention does arise, the Board may only grant permission where it considered that one of the following circumstances under Section 37(2)(b) of the Planning and Development Act 2000, as amended, apply. The circumstances under Section 37 (2)(b) are as follows:

- i. the proposed development is of strategic * or national importance,
- ii. there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan

7.5.2. In relation to (i), I do not consider that the proposed development is of strategic or national importance.

7.5.3. In relation to (ii), I do not consider that there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned. It is my view based on my analysis set out in section 7.3, 7.4 and 7.5 of this report above that the Planning Authority applied an erroneous interpretation of the objectives of the rural housing strategy as set out in Section 6.9 of the South Dublin County Development Plan 2022-2028.

7.5.4. In relation to Item (iii), The Sustainable Rural Housing Guidelines for Planning Authorities 2005 are the current Section 28 Guidelines for the Local Needs Criteria in Development Plans. (as by Circular Letter PL2/2017). The criteria adopted in the South Dublin County Development Plan 2022-2028 are in accordance with the provisions of the guidelines and Circular SP 5/08 as local need is based on a social

or economic need to live in the area within which an applicant proposes to build. I have assessed the appellants local housing need, and I consider that the proposed development complies with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities 2005.

- 7.5.5. In relation to (iv). The pattern of development at this location is a pattern of dispersed rural houses, however the proposed site is between a number of existing houses, all in the ownership of the appellants family. Since the SDCDP came into effect on the 3rd of August 2002, only two planning applications in the area were decided by the Planning Authority, both applications on the same site, (Refer to planning history in Section 4.0 of this report.) Both applications were refused permission as the applicants had not established local need criteria as per the SDCDP.
- 7.5.6. In conclusion, should the Board consider that the proposed development materially contravenes the objectives of the South Dublin County Development Plan 2023-2028 and having assessed the proposed development under the provisions of Section 37(2)(b) of the Planning and Development Act 2000 as amended, I am of the opinion, based on my analysis above, that the proposed development may be considered under provisions of Section 37(2)(b)(iii).

7.6. Compliance with Regional Settlement Policy

I consider that the Planning Authority's 3rd and 4th reasons for refusal are interrelated in terms of references to regional settlement policies as set out in the RSES.

- 7.6.1. In that context the Regional Economic and Spatial Strategy I consider objective RPO 4.8 is applicable requiring that the provision of single houses in the open countryside should be 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 rural settlements. This objective follows from National Planning Framework National Policy Objective 16 which seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over development whilst facilitating the provision of single housing based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the siting and design criteria for rural housing in statutory guidelines and plans and to the viability of

smaller towns and rural settlements. I am satisfied based on my assessment of the appellants rural housing need (Refer to Sections 7.3, 7.4 and 7.5) that they have a demonstratable social need to live in the rural area within which they propose to build.

- 7.6.2. The Planning Authority's fourth reason for refusal makes reference to the Dublin Metropolitan Area Spatial Plan which forms part of the Regional Economic and Spatial Strategy for the Eastern and Midland Region and the promotion of greenway infrastructure and cycle ways. Based on the information provided and a site inspection, I am satisfied that the proposed development would not prejudice the provision of greenway infrastructure or cycleways at this location. I note that the proposed development is car dependent, however the car dependency for the applicants will not change as a result of the development proposed in the area as it will relocate 200m west of their existing location within the family dwellinghouse.

7.7. Access and Traffic

- 7.7.1. I note that following an inspection of the site, that the local road serving the site is narrow and existing entrances provide informal lay-bys allowing for the passing of vehicles. The applicant has demonstrated that sight visibility of 90m either side of the proposed access is achievable, and I am satisfied that the site visibility at the access is sufficient from a road safety perspective. Whilst the proposal would give rise to an intensification of use at the proposed access, there will also be a reduction at the family house located approximately 200m to the east of the site, as the applicants currently reside at that location. I am satisfied that sufficient sight visibility can be achieved at the proposed site access and that the overall intensification of traffic will have negligible impact on the carrying capacity of the local road. Therefore, on the basis of the above I do not concur with the Planning Authority's reason to refuse in this regard.

7.8. Other Issues

- 7.8.1. The information on file relating to the proposed wastewater treatment system dates back to 2020, which indicated that a 1.6m trial hole was excavated and 'T' value of 25 and 'P' value of 24 was recorded. These values fall within the parameters of the EPA Code of practice for waste water treatment systems and given the results a

tertiary sand filter is recommended. I note that the site suitability assessment submitted with the application dates back to the 2020 planning application and no updated assessment has been provided. Having examined the site suitability assessment submitted and from a visual inspection of the site, there is nothing on site to question the results of the site assessment, therefore, I am satisfied that there has been no significant change to the characteristics or context of the site at this location and that the findings and recommendations are satisfactory. I note that in the two previous planning refusals that the disposal of the wastewater generated from the proposed development was not an issue of concern by either the Planning Authority or An Bord Pleanála and note the Planning Authority have not raised it as an issue for the current planning application.

- 7.8.2. In the event that permission is granted an occupancy condition should be included as recommended in the Sustainable Rural Housing Guidelines for Planning Authorities (2005) as the appellants have demonstrated that they are an intrinsic part of the rural community within which they propose to build.
- 7.8.3. In the event of a grant of planning permission, the South County Dublin Development Contribution Scheme would apply. The proposed development is not within the Kildare Route Project; therefore, the Supplementary Development Contribution Scheme is not applicable.

8.0 AA Screening

- 8.1. Having regard to the development proposed within the rural area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site. (Refer to AA Screening appended to this report)

9.0 Recommendation

Having regard to the foregoing, I recommend that permission is granted subject to conditions hereunder.

10.0 Reasons and Considerations

Having regard to the nature of the proposed development, its siting, design and proximity to adjoining residential properties and the applicant's compliance with the Rural Housing Policy and Local Need Criteria set out in the South Dublin County Development Plan 2022-2028. It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the South Dublin County Development Plan 2022-2028 and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), would not negatively impact on the established residential or rural amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 28th day of March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 28th March 2024 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent \leq 10)" – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent \leq 10)" – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution

4. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

6. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

(b) The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development

Reason: In the interests of visual and [residential] amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and

Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Alan Di Lucia
Senior Planning Inspector

February 2025

Appendix 1

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP 318840-24		
Proposed Development Summary	Five-bedroom dormer bungalow dwelling house with pitched roof over; new foul sewer treatment system and percolation area and widening of existing driveway and entrance from public road		
Development Address	Athgoe North, Newcastle, County Dublin.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class.....10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Threshold is 500 or more dwelling units, proposal 1 rural dwelling house	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319840-24	
Proposed Development Summary	Five-bedroom dormer bungalow dwelling house with pitched roof over; new foul sewer treatment system and percolation area and widening of existing driveway and entrance from public road	
Development Address	Athgoe North, Newcastle, County Dublin.	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. 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 proposed is for one dwelling in a rural area</p> <p>None of Significance</p>	<ul style="list-style-type: none"> • No • No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<ul style="list-style-type: none"> • The proposed development is for one dwelling in a rural area • None of Significance 	<ul style="list-style-type: none"> • No • No
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically</p>	<ul style="list-style-type: none"> • Not near any ecologically sensitive sites or protected species 	<ul style="list-style-type: none"> • No

<p>sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<ul style="list-style-type: none"> • None near the site 	<ul style="list-style-type: none"> • No
<p align="center">Conclusion</p>		
<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA is not required. 		

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____
 (only where Schedule 7A information or EIAR required)

Appropriate Assessment: Screening Determination

(Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed dwelling house and wastewater treatment unit in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Screening report has been prepared by *MOR* on behalf of the applicant and the objective information presented in that report informs this screening determination.

1.1 Description of the proposed development

The proposed development is for a dwelling house with a stated area of 315 square metres, served by an effluent treatment system. The information on file relating to the proposed wastewater treatment system dates back to 2020, which indicates that a 1.6m trial hole was excavated and 'T' of twenty-five and 'P' of 24 was recorded. A package wastewater treatment system and polishing filter is recommended. Water supply is from the public mains. The existing access is to be widened.

1.2 European Sites

Using the methodology outlined in the OPR AA Screening Assessment and the EPA website, it was determined that 9 no. Natura 2000 sites are located within or partially within the catchment area. Using the source-pathway-receptor best practice approach. (See Table 1 below)

Table 1

AA Screening Identification of Relevant Natura 2000 Sites Using Source-Pathway-Receptor Model

Natura 2000 Sites Identification Matrix				
Natura 2000 Site	Site Code	Distance to Proposed Development (km)	Connections (Source-Pathway-Receptor)	Considered Further in Screening (Yes/No)
Rye Water Valley / Carton SAC	003198	7.9km northeast	Given the separation distance from the site and the lack of ecological/hydrological pathways, the site has been scoped out for further consideration.	No
Wicklow Mountains SAC	002122	11.2Km Southeast	Given the separation distance from the site and the lack of	

			ecological/hydrological pathways, the site has been scoped out for further consideration	No
Wicklow Mountains SPA	004040	11.2Km Southeast	Given the separation distance from the site and the lack of ecological/hydrological pathways, the site has been scoped out for further consideration	No
Mouds Bog SAC	002331	19.2 km west	Given the separation distance from the site and the lack of ecological/hydrological pathways, the site has been scoped out for further consideration.	No

No European sites were identified as being located within a potential zone of influence of the proposed development.

1.3 Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

