



An
Bord
Pleanála

Inspector's Report

ABP-321933-25

Development

Permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann.

Location

26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD24A/0257W.

Applicant(s)

Derek Bowes.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party.

Appellant(s)

Derek Bowes.

Observer(s)

None.

Date of Site Inspection

17th April, 2025

Inspector

Aiden O'Neill

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 - AA Screening Determination

1.0 Site Location and Description

- 1.1. The proposed development site is irregular in shape, is c. 0.107ha in area, and comprises the western side of the rear garden of 26 Cois Na hAbhann, and part of the south-western section of the Sean Walsh Park to the immediate west, separated from the rear garden of 26 Cois Na hAbhann by a concrete block wall, and from the public road serving 21-30 Cois Na hAbhann by a palisade fence. 26 Cois Na hAbhann is the last dwelling in this cul-de-sac of 10no. semi-detached dwellings. The rear garden is accessed by a side gate.
- 1.2. Cois Na hAbhann is a suburban housing estate to the south of Tallaght Town Centre principally characterised by 2-storey semi-detached dwellings, set back from the public road, with front driveways/gardens and front/front and side porches, and rear gardens. Cois Na hAbhann is accessed via the R113 Old Bawn Road and then the Old Bawn Way, the Old Bawn Way, Old Bawn Park and Dún An Óir. Cois Na hAbhann Community School is located to the north of Cois Na hAbhann, and Sean Walsh Park to the west is accessed on foot via Dún An Óir, and from the west via Whitestone Way.
- 1.3. The Park is characterised by a large pond to the north-east of 26 Cois Na hAbhann, and the eastern boundary of the Park is characterised by the wooded riparian corridor of the Kiltipper Stream. There is evidence of anti-social behaviour in this wooded area, and it is inaccessible in the immediate vicinity of 26 Cois Na hAbhann.

2.0 Proposed Development

- 2.1 The proposed development seeks full planning permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car-parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann, Old Bawn, Tallaght Dublin 24.
- 2.2 The proposed 2no. semi-detached dwellings are of simple, modern design, each is 139m² in area and each is 8.325m in height to ridge level, with a front driveway separated by a hedge, a two-storey front bay window feature, and a rear part single-storey kitchen/dining area.
- 2.3 House no. 1 has a rear garden of 84m², whereas house no. 2 has an extended rear garden of 120m², both of which are accessed by a front gate with boundary wall, and separated by a boundary wall/fence.

- 2.4 The proposed 2no. dwellings are of a similar height to the adjacent no. 26 Cois Na hAbhann but are set behind the building line. They are also of a larger footprint to the existing dwellings on Cois Na hAbhann.
- 2.5 The application is accompanied by a letter of consent from the owner. The application states that the purchase of the site is subject to planning permission. The proposed development will connect to public services, which are available.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on 27th January, 2025 for 3no. reasons as follows:

1. Open Space Zoning The proposed development of two houses on an area of land zoned Open Space ('OS') under the South Dublin County Council Development Plan 2022-2028 would materially contravene zoning objective OS, which seeks 'to preserve and provide for open space and recreational amenities'. Whilst H3 Objective 4 does allow the provision of housing on OS land in certain circumstances, such housing will only be supported where it is 'community-led housing for older people' or where it is 'social /Council affordable housing', and where the quality and quantity of remaining public open space is deemed adequate and where the amenities of the area as a whole have been preserved. The proposal in its current form does not meet these criteria. It would result in the loss of an area zoned open space and would seriously injure the amenities of the area as a whole. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Riparian Corridor The proposal seeks to erect a dwelling (and its associated curtilage) within the 10m minimum setback of an existing watercourse (Whitestown Stream), which has not been considered as part of the assessment. It also seeks to clear an area of land and introduce 'associated infrastructure' (boundary fencing, boundary walls, driveway, pathway etc) for a dwelling within the 10m minimum setback of a second stream immediately west (i.e. Kiltipper Stream). The proposed development in its current form would therefore contravene Policy G13, Objective 3 of the South Dublin County Development Plan 2022 - 2028, which aims 'to promote and protect native riparian vegetation along all watercourses and ensure a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained/reinstated along all

watercourses within any development site'. The proposals in their current form would therefore not be in accordance with the proper planning and sustainable development of the area.

3. Parks & Habitat Protection This land has been under the control and maintenance of South Dublin County Council for at least 30 years and forms an integral part of Sean Walsh Park. The land in question is a valuable Open space and a valuable part of a wider habitat that needs to be protected from encroachment and biodiversity loss. Therefore, the proposed development would seriously injure the amenities of the area and be contrary to the proper planning and development of the area

3.1.1. Conditions

N/A

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Senior Executive Planner dated 27th January, 2025 notes the following:
 - The site is in close proximity to both the Kiltipper Stream (western) and Whitestown Stream (eastern stream).
 - The majority of the subject site is zoned 'OS' 'To preserve and provide for open space and recreational amenities, however, a small portion of the subject site, directly adjacent to the existing dwelling, is subject to zoning objective 'RES' - 'To protect and/or improve residential amenity.', under the South Dublin County Development Plan 2022-2022.
 - Three planning applications have been made for the construction of 2 no. semi-detached 3-bedroom houses on this site since 2016 (namely Planning References SD16A/0015, SD16A/0303 and SD24A/0086W). All three planning applications have been refused by the Council on the grounds of
 - (i) inconsistency with the zoning objective of the County Development Plan
 - (ii) impact on the riparian corridor and
 - (iii) impact on Sean Walsh Park/amenities within the vicinity.

- Planning application SD16A/0303 was appealed to the Board and subsequently overturned. The development permitted under this appeal decision never commenced. An extension of duration to SD16A/0303 under SD16A/0303/EP was refused on the basis that it failed to meet the criteria necessary to allow the duration of the permission to be extended.
- This latest planning application and that of SD24A/0086W, refused by the Council last year, were made under the South Dublin County Development Plan 2022-2028. The weight attributed to the protection of the County's watercourses and its riparian corridors has heightened under the latest County Development Plan.
- In relation to the reasons for refusal on the recent application PA Ref. No. SD24A/0086W the following is of note:
 - Refusal Reason 1:
 - There has been no change to the zoning objective for this site since the previous decision was made, therefore this reason for refusal has not been overcome and remains applicable.
 - Refusal Reason 2:
 - There has been no change to the setback between the proposed development and that of the adjoining watercourses since the previous decision. Like the previous scheme, the proposal includes development (boundary treatments, a driveway etc) immediately adjacent to the bank of the eastern watercourse (Whitestown Stream).
 - Unlike the previous application, this latest planning application has been supported by engineering drawings which now show the proximity of the dwelling, particularly that of the western dwelling, to the two adjoining watercourses.
 - Only the western watercourse (i.e. Kiltipper Stream) appears on the site layout plan. The eastern watercourse (Whitestown Stream) has again been omitted from this drawing.
 - Having regard to the proximity of the proposed development and its associated infrastructure to the adjoining watercourse and the loss of vegetation within the riparian corridor at this location to facilitate same,

it is again recommended that planning permission be refused on its inconsistency with Policy G13, Objective 3.

- Refusal Reason 3: Parks & Habitat Protection
 - There has been no change to the design of the proposal since the previous decision, this reason for refusal therefore still remains relevant.
- Notwithstanding the additional engineering drawings submitted as part of this latest planning application, which now show the location of the two watercourses relative to the proposed development, all three reasons for refusal outlined under SD24A/0086W remain applicable to this latest planning application. It is therefore recommended that planning permission be again refused on this basis.
- While a portion of the site is zoned 'RES', the majority of the site and proposed development is located on land subject to the zoning objective 'OS'. Residential development is listed as 'Open for Consideration' use only where it accords with H3 Objective 4, which seeks; 'To support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS", only where the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved.' The proposed development would not fall under the description of any of the housing development types listed under H3 Objective 4. Therefore, it would materially contravene the overarching 'OS' zoning on the site. In addition, the granting of permission for such development on the subject lands would set an undesirable precedent for the loss other areas of open space across the County. Based on the above, a refusal of permission is strongly recommended.
- The site is located in proximity to the Whitestown Stream and the Kiltipper Stream Riparian Corridor area which is identified as a Secondary Corridor L10 – Tallaght-Dublin Mountains Link on Figure 4.4 Green Infrastructure Strategy Map in the Plan. G13 Objective 3 seeks to promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development

site. The application was referred to the Public Realm and Parks section who have reviewed the application and provided the following comments:

- Public Realm recommend refusal.
 - The land has remained under the maintenance of SDCC since the previous refused application. It is part of Sean Walsh Park and is also a valuable habitat that needs to be protected. This proposal would also cut off an informal pathway through Sean Walsh Park.
 - There has been no tree survey completed for this proposal. The 'Open Space' area of the site forms part of the Sean Walsh Park. The development would involve the removal of significant vegetation and trees and the protection of a valuable habitat would be compromised.
 - The proposal encroaches the minimum 10m riparian setback of the Whitestown Stream and the Kiltipper Stream, which is in contravention of Policy G13, Objective 3 of the County Development Plan. It is to be noted that the 10m setback is to be a native strip of vegetation, not privately owned garden.
 - The applicant has not demonstrated compliance with relevant GI Policies or submitted proposal worksheet of the Green Space Factor (GSF) for development comprising 2 or more residential units as required under Policy G14 Objective 4 and Section 12.4.2 of the Plan.
- In relation to infill development, the criteria set out in section 12.6.8 Residential Consolidation (i) Infill Development of the Plan applies. The Planning Authority has determined that the proposed development generally complies with the applicable criteria.
 - The Planning Authority has also determined that that the proposed development complies with the policies of the Plan with respect to Corner / Side Gardens Development.
 - Had a refusal not been recommended, full details of boundary treatments would have been sought by way of a planning condition.
 - The Senior Executive Planner concludes that the proposed development would contravene the plan by failing to accord with H3 Objective 4, and the associated zoning

objective. The current proposal would also encroach the minimum 10m riparian setback of the Whitestown Stream and the Kiltipper Stream, which would directly contravene policy G13 Objective 3. The land has also been under the control and maintenance of South Dublin County Council and is an integral part of the adjoining Sean Walsh Park. Regardless of its accessibility, the site forms part of a valuable wider habitat that needs to be protected from encroachment.

- The Senior Executive Planner's report is the basis for the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

- The report of the Roads Department dated 2nd December, 2024 notes that the layout plans are not clear on the access arrangements. From the drawing the turning hammer head at the end of Cois na Habhann has been moved to the west, which would extend the public road into the applicants red line boundary. There is a public lighting pole at this end of the road that may need to be relocated. The layout details 2no. parking spaces to the front of each dwelling, it is not clear from the drawings how the vehicles will enter and exit from these. Further information is recommended.
- The report of the Senior Executive Engineer, Water Services, dated 28th January, 2025 recommended refusal on the basis that the proposed development does not comply with the County Development Plan 2022-2028. The development is less than 10m to top of bank of adjacent Kiltipper Stream (Original Stream). It is also stated that it is unclear what extent of proposed SuDS (Sustainable Drainage Systems) are proposed for the development. There is no objection from a flood risk perspective.

3.3. Prescribed Bodies

- The report of Inland Fisheries Ireland dated 5th December, 2024 states that the proposed development would appear to be at odds with the Council's Green Infrastructure Strategy for the County, "Policy G13: Sustainable Water Management".
- The report of the EHO dated 2nd January, 2025 also states that proposal is acceptable subject to conditions.
- The report of Uisce Éireann dated 21st January, 2025 states no objection in principle. A Confirmation of Feasibility CDS24009330 has been issued to the applicant advising that

water and wastewater connections are feasible. It is also stated that if it is not feasible to connect to the existing foul sewer pipe as shown, and that the applicant will be required to extend the connection by approximately 60m.

3.4. Third Party Observations

- None on file.

4.0 Planning History

- SD24A/0086W – Permission was refused on 13th June, 2024 for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car-parking to front garden with all associated site works in the side garden for the following reasons:
 - 1. Open Space Zoning The proposed development of two houses on an area of land zoned Open Space ('OS') under the South Dublin County Council Development Plan 2022-2028 would materially contravene zoning objective OS, which seeks 'to preserve and provide for open space and recreational amenities'. Whilst H3 Objective 4 does allow the provision of housing on OS land in certain circumstances, such housing will only be supported where it is 'community led housing for older people' or where it is 'social /Council affordable housing', and where the quality and quantity of remaining public open space is deemed adequate and where the amenities of the area as a whole have been preserved. The proposal in its current form does not meet these criteria. It would result in the loss of an area zoned open space and would seriously injure the amenities of the area as a whole. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
 - 2. Riparian Corridor The proposal seeks to erect a dwelling (and its associated curtilage) within the 10m minimum setback of an existing watercourse (Whitestown Stream), which has not been considered as part of the assessment. It also seeks to clear an area of land and introduce 'associated infrastructure' (boundary fencing, boundary walls, driveway, pathway etc) for a dwelling within the 10m minimum setback of a second stream immediately west (i.e. Kiltipper Stream). The proposed development in its current form would therefore

contravene Policy G13, Objective 3 of the South Dublin County Development Plan 2022 - 2028, which aims 'to promote and protect native riparian vegetation along all watercourses and ensure a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained/reinstated along all watercourses within any development site'. The proposals in their current form would therefore not be in accordance with the proper planning and sustainable development of the area.

- 3. Parks & Habitat Protection This land has been under the control and maintenance of South Dublin County Council for at least 30 years and forms an integral part of Sean Walsh Park. The land in question is a valuable Open space and a value part of a wider habitat that needs to be protected from encroachment. Therefore, the proposed development would seriously injure the amenities of the area and be contrary to the proper planning and development of the area.
- SD16A/0303/EP – Permission refused on 25th April, 2022 for an extension of duration on PA Ref. No. S16A/0303 for the removing of existing garden wall and palisade fence along western boundary and for constructing a new 215mm tk. x 2.1m high rendered block perimeter wall complete with piers and concrete capping along south and west boundary to incorporate part adjoining site (area 481.3sq.m.). Permission sought for construction of 2 new semi-detached 3 bedroom houses to side (floor area to be 126.85 sq.m per house, with a proposed ridge height of 8.325m above ground level), including 900mm deep bay window to front elevations at ground and first floor levels, single storey flat roof extended ground floor across rear and first floor windows to east and west elevations. Permission also sought for the construction of 2 new 3m wide driveway entrances with 750mm high block wall and 450mm.sq. x 1.2m high brickwork piers across front/n.east boundary, to form vehicle access onto new 6.15m long extended roadway across front of site, complete with dished footpath and kerbing to tie into existing, together with all associated site works. Permission was refused on grounds that the criteria set down in Section 42 of the Planning and Development Act 2000 (as amended) are not met in this instance, and the Planning Authority therefore cannot grant permission for an extension of duration of permission. In each case the Planning and Development Act 2000 (as amended) sets out as necessary criteria that works have commenced and substantial works must have taken place.

- SD16A/0303 – Permission refused on 28th October, 2016 for the removing of existing garden wall and palisade fence along western boundary and for constructing a new 215mm tk. x 2.1m high rendered block perimeter wall complete with piers and concrete capping along south and west boundary to incorporate part adjoining site (area 481.3sq.m.). Permission sought for construction of 2 new semi-detached 3 bedroom houses to side (floor area to be 126.85sq.m per house, with a proposed ridge height of 8.325m above ground level), including 900mm deep bay window to front elevations at ground and first floor levels, single storey flat roof extended ground floor across rear and first floor windows to east and west elevations. Permission also sought for the construction of 2 new 3m wide driveway entrances with 750mm high block wall and 450mm.sq. x 1.2m high brickwork piers across front/n. East boundary, to form vehicle access onto new 6.15m long extended roadway across front of site, complete with dished footpath and kerbing to tie into existing, together with all associated site works. The decision was overturned on appeal (PL06S.247642) and was granted permission on 10th April, 2017, subject to conditions.
- SD16A/0015 – Permission refused on 11th March, 2016 for the removal of existing garden wall and palisade fence along western boundary and for construction of 215mm tk. x 2.1m high rendered block perimeter wall complete with piers and concrete capping along south and west boundary to incorporate adjoining site (area 554.7 sq.m). Permission for construction of 2 new semi-detached 3 bedroom houses to side (floor area to be 144.71 sq.m per house with a ridge height of 8.525m above ground level) including 900mm deep bay window to front elevations at ground and first floor levels; single storey flat roof extended ground floor across rear and first floor windows to east and west elevations. Permission also sought for construction of 2 new 3.5m wide driveway entrances with 750mm high block wall and 450mm.sq. x 1.2m high brickwork piers across front northeast boundary to form vehicular access onto new 7m long extended roadway across front of site, complete with dished footpath, grass verge and kerbing to tie in with existing, together with all associated site works.

5.0 Policy Context

Development Plan

- The applicable Plan is the South Dublin County Development Plan 2022-2028
- A small portion of the site is zoned 'RES', which seeks to protect and / or improve residential amenity. The majority of the site and proposed development is located on land subject to the zoning objective 'OS' which seeks to preserve and provide for open space and recreational amenities. Residential development is listed as 'Open for Consideration' use only where it accords with H3 Objective 4, which seeks to support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS", only where the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved.
- A Riparian Corridor is identified on the zoning map, the boundary of which appears to overlap with the proposed development site. Section 12.4.3 of the Plan states that the riparian corridors of the County include rivers, streams and other watercourses and are important for water quality as well as providing green infrastructure and biodiversity links. Development within or affecting riparian corridors will be required to:
 - Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan;
 - Demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology;
 - Promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site. This is a minimum and should be considered in light of the bullet points above;

- Accordingly, the following Green Infrastructure objectives are of note:
 - GI1 Objective 4 seeks to require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial, and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage, and enhance GI resources providing links to local and countywide GI networks.
 - Policy GI3 in relation to Sustainable Water Management seeks to protect and enhance the natural, historical, amenity and biodiversity value of the County's watercourses. Require the long-term management and protection of these watercourses as significant elements of the County's and Region's Green Infrastructure Network and liaise with relevant Prescribed Bodies where appropriate. Accommodate flood waters as far as possible during extreme flooding events and enhance biodiversity and amenity through the designation of riparian corridors and the application of appropriate restrictions to development within these corridors.
 - GI3 Objective 1 seeks to ensure that hydromorphical assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.
 - GI3 Objective 2 seeks to require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology.
 - GI3 Objective 3 seeks to promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site.
- H3 Objective 4 seeks to support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS", only where the quality and quantum of remaining public open space is deemed to be adequate, and the amenities of the area are preserved. .

- Section 6.8.1 of the Plan sets out the Infill, Backland, Subdivision and Corner Sites Policy
- H13 Objective 1 seeks to promote and support residential consolidation and sustainable intensification at appropriate locations and to encourage consultation with existing communities and other stakeholders.
- H13 Objective 3 seeks to favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 12: Implementation and Monitoring.
- H13 Objective 5 seeks to ensure that new development in established areas does not unduly impact on the amenities or character of an area.
- There are wider Aviation related objectives applicable to the lands.

5.1. Relevant National or Regional Policy / Ministerial Guidelines (where relevant)

N/A.

5.2. Natural Heritage Designations

The proposed development site is c.4.87km to the north of the Wicklow Mountains SAC (Site Code:002122), c. 1.18km north-west of the Dodder Valley pNHA (Site Code: 000991) and c. 2.48km north of the Glenasmole Valley SAC (Site Code: 001209) and pNHA (Site Code: 001209).

6.0 EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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. Please refer to Form 1 and Form 2 as per Appendix 1 below.

7.0 The Appeal

7.1. Grounds of Appeal

- The First Party appeal against the refusal of permission makes the following points
 - The application is a repeat of the application that was previously approved by the Board (PL06S.247642).
 - The site cannot be deemed open space as it is privately owned by Liam and Marion Kelly under folio DN188956F, proof attached in the form of a letter from a firm of solicitors dated 2nd February, 2010, the folio confirming registration dated 10th April, 2010 and a map, with the lands identified as CW5VD thereon. The 2no. houses are to be built for the applicant's two sons who live 1km away.
 - A Flood Risk Assessment and Appropriate Assessment Screening Report as submitted with the application demonstrate that the site is not prone to, or at risk of, flooding. The Whitestown Stream is c. 200m from the proposed development site, and house no. 2 is just over 10m from the bank of the Kiltipper Stream. There are paths etc within the riparian corridor but not the structure. There are 2no. ditches running parallel to the site. The one further away from the development is the Kiltipper Stream, and the other, closer one, is a dry watercourse. The Whitestown Stream is elsewhere and not close to the development. This is addressed in the FRA.
 - There was no evidence of the land being maintained by the Council. There are some footpaths along desire lines within the lands. The folio map confirms the ownership.

7.2. Applicant Response

- N/A

7.3. Planning Authority Response

- The response of the Planning Authority dated 20th March, 2025 states that the Planning Authority confirms its decision, and that the issues raised in the appeal have been covered in the Chief Executive Order.

7.4. Observations

- None on file.

7.5. Further Responses

- None on file.

8.0 Assessment

- 8.1 Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.
- 8.2 In relation to the Planning Authority's third reason for refusal in relation to legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act, 2000, as amended.
- 8.3 I also note that there are no issues raised by the Planning Authority in respect of the design of the proposed 2no. dwellings, in terms of their appropriateness in context and their amenities, and I would concur that the design is in keeping with the character of the area, without impact on existing residential uses, and that an acceptable standard of accommodation and private open space has been provided. I do not propose to consider these issues further given the substantive reasons for refusal in terms of compliance with the Open Space zoning objective and the compliance with the applicable Green Infrastructure objectives.
- 8.4 The main issues are as follows:

- Compliance with the applicable zoning objectives.
- Compliance with the Green Infrastructure objective.

8.5 Compliance with the applicable zoning objectives.

8.5.1 The application seeks permission for the construction of 2no. semi-detached two-storey houses.

8.5.2 A small portion of the site is zoned 'RES', which seeks to protect and / or improve residential amenity. Only a part of house no. 1 is located on the part of the site zoned RES.

8.5.3 The majority of the proposed development site is located on lands subject to an Open Space zoning objective, 'OS', which seeks to preserve and provide for open space and recreational amenities.

8.5.4 While residential development is listed as an 'Open for Consideration' use, it can only be considered where it accords with H3 Objective 4.

8.5.5 H3 Objective 4 seeks to support community led housing developments for older persons and social and Council affordable housing in established areas on lands designated with Zoning Objective "OS", only where the quality and quantum of remaining public open space is deemed to be adequate, and the amenities of the area are preserved.

8.5.6 While only a small section of the zoned open space area is affected, and is, of itself, generally unusable and inaccessible, with minimal impact on the remaining open space, the proposed development, which it is stated will be for the applicant's two sons¹ who live c. 1km away, does not comply with H3 Objective 4, which supports community led housing developments for older persons and social and Council affordable housing. Neither category applies in this instance.

8.5.7 The Board previously granted permission on 10th April, 2017 for 2no. dwellings on the site, ABP Ref. No. PL06S.247642 (overturning a refusal of permission from South Dublin County Council (PA Ref. No. SD16A/0303)) as a dwelling house was an open for consideration use under the then Open Space zoning objective. However, this open for consideration use is now qualified by the provisions of H3 Objective 4.

8.5.8 Therefore, the proposed development of 2no. houses on lands zoned primarily open space, which would be required to accord with the specific requirements of H3 Objective 4 in order

¹ It is not clear if the two sons are the applicants or the landowners

to be assessed as an open for consideration use, represents a material contravention of the OS open space zoning objective and H3 Objective 4.

8.5.9 The proposed development, if permitted, would set an undesirable precedent for residential development on open space zoned lands that does not comply with H3 Objective 4, which is not in the interests of the proper planning and sustainable development of the area.

8.5.10 A refusal of permission is recommended on this basis.

8.6 Compliance with the Green Infrastructure objective

8.6.1 The Planning Authority also refused permission on the basis that the proposed development would contravene Policy G13, Objective 3 of the South Dublin County Development Plan 2022 – 2028, as it seeks to erect a dwelling (and its associated curtilage) within the 10m minimum setback of an existing watercourse.

8.6.2 The reason for refusal principally stems from the views of the Public Realm and Parks section of the Planning Authority, who, in recommending refusal, noted that the proposal encroaches the minimum 10m riparian setback of the Whitestown Stream and the Kiltipper Stream, and that the 10m setback is to be a native strip of vegetation, not a privately owned garden. The proposal would involve the removal of significant vegetation and trees and the protection of a valuable habitat would be compromised. The proposal would also cut off an informal pathway through Sean Walsh Park.

8.6.3 There is a lack of clarity presented in the application documentation and appeal on the watercourses to the west of the proposed development site and the distance of the proposed development from them.

8.6.4 In the application materials, at its closest point, proposed house no. 2 is identified as being 10.511m from the nearest stream on the Proposed Site Layout Plan, drawing no. 24.002 submitted with the application. The Roads and Services Report that accompanies the application states that the Kiltipper Stream discharges to the Whitestown Stream c. 150m to the north. It is stated in the Appropriate Assessment Screening Report that accompanies the application that there is a buffer of at least 5m between the site boundary and the stream (identified as the Jobstown Stream), where no work will take place.

8.6.5 The First Party contends in the appeal that the Whitestown Stream is c. 200m from the proposed development site, and house no. 2 is just over 10m from the bank of the Kiltipper Stream. It is stated that there are paths etc within the riparian corridor but not the dwelling itself. It is also stated that there are 2no. ditches running parallel to the site. The one further

away from the development is the Kiltipper Stream, and the other, closer one, is a dry watercourse. The Whitestown Stream is elsewhere and not close to the development. On drawing no. G1584-12, Existing and Proposed Surface Water Drainage and SuDS Layout submitted with the appeal, an existing dry watercourse is identified to the immediate west of the proposed development site, to which the proposed development will discharge surface water.

- 8.6.6 Irrespective of the nature and extent of the watercourses to the west of the proposed development site, as noted above, a Riparian Corridor is clearly identified on the South Dublin Development Plan 2022-2028 online zoning map. The boundary of the riparian corridor appears to me to overlap with the proposed development site. It would appear to me that proposed dwelling no. 2 is not of itself located in the riparian corridor, but its private garden space is. This would align with the First Party appeal and the comments made by the Public Realm and Parks section of the Planning Authority.
- 8.6.7 In this context, the proposed development encroaches on the Riparian Corridor of the Kiltipper Stream. Section 12.4.3 of the South Dublin County Development Plan 2022 states that development within or affecting riparian corridors will be required to:
- Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.
 - No hydromorphological assessment has been undertaken.
 - Demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and Hydromorphology.
 - The application includes a flood risk assessment. No other documentation to demonstrate how the integrity of the corridor can be maintained and enhanced is provided.
 - Promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site. This is a minimum and should be considered in light of the bullet points above.

- The proposed development encroaches into the minimum 10m vegetated riparian buffer.

8.6.8 The proposed development is not consistent with the following Green Infrastructure objectives:

- GI3 Objective 1, which seeks to ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan: no hydromorphological assessment has been undertaken.
- GI3 Objective 2, which seeks to require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and Hydromorphology: the application includes a flood risk assessment. No other documentation to demonstrate how the integrity of the corridor can be maintained and enhanced is provided.
- GI3 Objective 3, which seeks to promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site: The proposed development encroaches into the minimum 10m vegetated riparian buffer.

8.6.9 In this respect, the proposed development encroaches on the Riparian Corridor, and, having regard to Section 12.4.3 of the South Dublin County Development Plan 2022, and based on the information submitted with the application and appeal, the proposed development would materially contravene GI3 Objective 3 of the South Dublin County Development Plan 2022.

8.6.10 A refusal of permission is recommended on this basis.

9.0 AA Screening

9.1 See Appendix 2 attached to this report. I have considered the permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24 in light of the requirements S177U of the

Planning and Development Act 2000 as amended.

- 9.2 The proposed development site is c. 4.87km to the north of the Wicklow Mountains SAC (Site Code:002122), and c. 2.48km north of the Glenasmole Valley SAC (Site Code: 001209).
- 9.3 The proposed development consists of permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24.
- 9.4 No nature conservation concerns were raised in the planning appeal.
- 9.5 Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The modest scale of the development and lack of impact mechanisms that could significantly affect a European Site
- 9.6 I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 9.7 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

- 10.1 I recommend that permission for the development be refused for the following reasons and considerations.

11.0 Reasons and Considerations

1. The proposed development of 2no. houses on an area of land primarily zoned Open Space ('OS') in the South Dublin County Council Development Plan 2022-2028. The OS zoning objective seeks 'to preserve and provide for open space and recreational amenities'. While residential development is listed as an 'Open for Consideration' use, it can only be considered where it accords with H3 Objective 4 of the Plan. HS Objective 4 of the Plan seeks to support community led housing developments for older persons and social and

Council affordable housing in established areas on lands designated with Zoning Objective “OS”, only where the quality and quantum of remaining public open space is deemed to be adequate and the amenities of the area are preserved. The proposed development, which does not comprise either community-led housing for older people or social /Council affordable housing’, is not supported by the H3 Objective 4 and by the OS zoning objective. The proposed development would materially contravene H3 Objective 4 and the OS zoning objective. The proposed development would, if permitted, set an undesirable precedent for residential development that does not comply with H3 Objective 4 on zoned Open Space lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2.The proposed development encroaches on the Riparian Corridor of the Kiltipper Stream. Having regard to Section 12.4.3 of the South Dublin County Development Plan 2022, and based on the information submitted with the application and appeal, the proposed development would materially contravene GI3 Objective 3 of the South Dublin County Development Plan 2022, which seeks to promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site: The proposed development encroaches into the minimum 10m vegetated riparian buffer. The proposed development would, therefore, 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.

29th April, 2025

Ad. O'Sullivan

Inspector: _____ **Date:** _____

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

An Bord Pleanála Case Reference	ABP-321933-25		
Proposed Development Summary	Permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann.		
Development Address	26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24		
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	
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) of Part 2 of Schedule 5	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	√	Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?

Yes √	Tick/or leave blank	Class 10(b)(i) of Part 2 of Schedule 5. Threshold is 500 dwelling units.	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?

No	√	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector:

Ad. onull

29th April, 2025.

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-321933-25
Proposed Development Summary	Permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann.
Development Address	26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24
<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>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development seeks to construct 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann.</p> <p>The nature and extent of the proposed development is modest in footprint and is not exceptional in the context of the existing environment.</p> <p>The proposed development does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The</p>

	<p>development by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health. Surface water will be discharged to public sewer or public drain. Wastewater to be discharged to public sewer.</p> <p>It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in an established suburban residential area.</p> <p>The proposed development site is c.4.87km to the north of the Wicklow Mountains SAC (Site Code:002122), c. 1.18km north-west of the Dodder Valley pNHA (Site Code: 000991) and c. 2.48km north of the Glenasmole Valley SAC and pNHA (Site Code: 001209).</p> <p>Having regard to the nature and scale of the proposed development, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects)</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, there is no potential for significant effects on the environmental factors</p>

and opportunities for mitigation).	<p>listed in section 171A of the Act.</p> <p>There are no significant cumulative considerations having regard to other existing and/or permitted projects.</p>
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Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: Aden O'Sullivan Date: 29th April, 2025

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

Appendix 2 - AA Screening Determination Test for likely significant effects

AA Screening where a screening report was submitted, and no significant AA issues arise.

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics Case file: ABP-321933-25				
Brief description of project	Normal Planning appeal Permission for the construction of 2 new semi-detached 3 bedroom houses with new vehicular access and car parking to front garden with all associated site works in the side garden of number 26 Cois Na hAbhann			
Brief description of development site characteristics and potential impact mechanisms	The proposed development site is located at 26 Cois Na hAbhann, Old Bawn, Tallaght, Dublin 24 There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.			
Screening report	Yes South Dublin County Council screened out the need for AA.			
Natura Impact Statement	No			
Relevant submissions	None			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Wicklow Mountains SAC (Site Code: 002122)	Lakes, Heaths, Grasslands (12 x habitats) Otter (1 x species) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002122.pdf NPWS, 2017	4.87km	No direct connection	Y

Glenasmole Valley SAC (Site Code: 001209)	3 x habitats https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001209.pdf	2.48km	No direct connection	Y
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The proposed development site is c.4.87km to the north of the Wicklow Mountains SAC (Site Code:002122) and c. 2.48km to the north of the Glenasmole Valley SAC (Site Code: 001209).

Further Commentary / discussion

Due to the location of the development site and the distance between the site and the nearest designated site, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site Wicklow Mountains SAC (Site Code: 002122) [3110] Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3160] Natural dystrophic lakes and ponds [4010] Northern Atlantic wet heaths with Erica tetralix [4030] European dry heaths [4060] Alpine and Boreal heaths [6130] Calaminarian grasslands of the Violetalia calaminariae [6230] Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [7130] Blanket bogs (* if active bog) [8110] Siliceous scree of the montane to snow levels (Androsacetalia alpinae and	Direct: none Indirect: localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during operation	The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed. Conservation objectives would not be undermined.

<p>Galeopsietalia ladani)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> <p>[91A0] Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>[1355] Lutra lutra (Otter)</p> <p>* Priority Habitats</p>		
<p>Site Glenasmole Valley SAC (Site Code: 001209)</p> <p>[6120] Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites)</p> <p>[6410] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)</p> <p>[7220] Petrifying springs with tufa formation (Cratoneurion)</p>	<p>Direct: none</p> <p>Indirect: localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during operation</p>	<p>The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed. Conservation objectives would not be undermined.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
<p>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</p> <p>I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on a European Site.</p> <p>No mitigation measures are required to come to these conclusions.</p>		
<p>Screening Determination</p> <p>Finding of no likely significant effects</p> <p>In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to</p>		

give rise to significant effects on the on the Wicklow Mountains SAC or the Glenasmole Valley SAC, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The modest scale of the development and lack of impact mechanisms that could significantly affect a European Site.

Ad. O'Neill

29th April, 2025

Inspector: _____ **Date:** _____