



An
Coimisiún
Pleanála

Inspector's Report PL-501398-SD-26

Development	Construction of a single storey slipped roof design bungalow. A septic tank discharging to a subsurface trench percolation area. The commencement of a canine accommodation business with eighteen kennel cubicles and all associated site works.
Location	Lynch Park Road, Brittas, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD26A/0057W
Applicant	Reece Downes
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant	Reece Downes
Observer	None
Date of Site Inspection	26 th August 2026
Inspector	John Duffy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	8
3.4. Third Party Observations	8
4.0 Planning History.....	9
5.0 Policy Context.....	9
6.0 EIA Screening.....	20
7.0 The Appeal	20
7.1. Grounds of Appeal	20
7.2. Planning Authority Response.....	24
7.3. Observations.....	24
8.0 Assessment	24
9.0 AA Screening.....	35
10.0 Water Framework Directive	36
11.0 Recommendation	37
12.0 Reasons and Considerations.....	37
Appendix 1: Form 1 EIA Pre-Screening	40
Appendix 2: Form 2 - EIA Preliminary Examination	42

1.0 Site Location and Description

- 1.1. The appeal site is located in the open countryside, on the western side of a local road known as Lynch Park Road (L-3605), and in the upland area of South Dublin County, approximately 700m south-east of Slade Valley Golf Club, c.3.5km (as the crow flies) south of Rathcoole, Co. Dublin and c.1.7km north-west of Brittas, Co. Dublin. Brittas Reservoir is located c.0.8km south-east of the lands on the eastern side of the Blessington Road (N81).
- 1.2. The site covers an area of c.0.376ha, with ground levels sloping upwards in an east to west direction from the public road. Based on information on file it appears that the site was previously covered by part of a Coillte commercial woodland, with this woodland having since been cleared from the site. Lands adjoining the site contain areas of woodland and mature trees.
- 1.3. Land uses in the area are characterised by agriculture, forestry and rural housing, with the closest dwelling situated c.150m to the south-east.

2.0 Proposed Development

2.1. Permission is sought for the following:

- A single storey dwelling (c.236sqm) with four double bedrooms. External finishes consist of plaster finish for walls and tiled roof. Maximum pitched roof height is given as c.5.16m. The dwelling served by a gravel driveway is set back c.18.5m from the front site boundary, is broadly centrally located on the site and has a north-eastern orientation.
- A septic tank to discharge to a subsurface trench percolation area.
- Upgrading of existing entrance to the site.
- A bored well.
- Commencement of a canine accommodation business and the construction of a structure containing 18 no. kennel cubicles to accommodate up to 18 no. dogs, to be used as part of the business. This structure is 1.8m high, with flat roof and finished in barrel shiplap timber, with each cubicle (c.1.92sqm) containing a high level window. The width of the structure is given as 4.63m and its length is 15.63m.

The site plan indicates that the proposed kennel cubicle structure is to be sited 4m from the rear of the proposed house.

- The provision of canine waste storage facilities prior to waste being transported off-site by a licensed contractor.
- All associated site works.

2.2. In addition to the standard plans and drawings, the application was accompanied by the following:

- Cover letter and Report from Planning Consultant.
- Site Characterisation and Assessment Report.
- 3D images of the proposed development.
- A Landscaping Plan.
- A Visual Impact Assessment (with singular vantage point c.2.2km to the east).
- A Business Plan for a boarding kennel business on the lands.
- A report from Arborist Associates Limited which concludes that the proposed development would have minimal impact on tree cover in this area as the bulk of the site is free of trees. The proposal would be augmented with new tree, shrub and hedge planting as part of the landscaping for the completed development.
- A Traffic Count / Speed Survey for the period 23rd to 29th September 2025 at the proposed access to the lands.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for the proposed development on 29th April 2026 for five reasons, summarised as follows:

1. National, Regional and Local Policy.

The proposal is contrary to Policy Objectives of the National Planning Framework (NPO19, NPO33 and NPO3b), the Regional Spatial and Economic Strategy (Objective RPO 4.8) and the South Dublin County Development Plan

2022-2028 (Policies CS1 and CS11) which recommend that new residential development be directed to existing urban areas and that new rural housing only be supported where there is a demonstrable social or economic justification to do so. The applicant has not met the required criteria to demonstrate exceptional circumstances that would justify non-application of the policy to restrict rural housing in the area.

2. Restriction of Housing in Rural Areas.

The applicant has failed to provide justification which would warrant setting aside of the objective of Development Plan Policy H16 which restricts urban generated dwellings in Rural ('RU'), Dublin Mountain ('HA-DM'), Liffey Valley ('HA-LV') and Dodder Valley ('HA-DV') zones. The proposed development therefore materially contravenes the objectives of the Development Plan and would lead to demands for the uneconomic provision of further public services and facilities in this rural area.

3. High Amenity Dublin Mountains.

The site is located on lands subject to Development Plan zoning objective HA-DM and it is Council policy within such areas that new or replacement dwellings will only be considered in exceptional circumstances subject to criteria set out in Objective 1 of Policy H19. It has not been satisfactorily demonstrated that the proposal would comply with all criteria in this policy for housing in this area and no details of exceptional circumstances are provided. The proposed development would therefore materially contravene the zoning objective of the area.

4. Green Infrastructure, Landscape, Ecology.

The proposed development would undermine the strategic green infrastructure network in the county and would be contrary to county policy to protect the environmental and ecological capacity of sites in the Dublin Mountains and to protect its landscape and trees and hedgerows above the 120m contour line. The proposed development would negatively impact on this sensitive landscape and natural beauty of the rural area. The proposed development would breach the following policies and objectives: Table 4.1 Strategic Objectives in GI Corridors; Policy GI1 Overarching (Green Infrastructure);

Policy GI2 Biodiversity; Policy H19 Housing in the High Amenity Dublin Mountains Zone; Policy H23 Rural Housing Design; Policy NCBH1 Overarching (Natural, Cultural and Built Heritage); Policy NCBH2 Biodiversity; Policy NCBH11 Objective 5 (Protection of trees and hedgerows above 120m contour).

5. Traffic Hazard.

Proposed development would be located on a substandard rural road network, which is narrow in width, has poor vertical and horizontal alignment and lacks pedestrian, public lighting and drainage facilities. The road network in the area is incapable of catering for the continuation of ribbon development and as such the proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proposer planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning Report forms the basis for the planning authority's decision to refuse permission, as detailed above. The report assesses the proposed development in terms of previous refusal reasons relating to a previous application on the lands made by the applicant (Reg. Ref. SD25A/0137W refers) and includes the following commentary which is summarised:

- Residential development is Open for Consideration under the 'HA-DM' zoning objective of the site.
- Boarding Kennels (as defined under Appendix 6 'Definitions of Use-Classes of the Development Plan) are Not Permitted under the 'HA-DM' zoning objective and therefore the proposed canine accommodation business would materially contravene the CDP and should be refused permission.
- The proposal is for the same development as previously proposed and refused under Reg. Ref. SD25A/0137W, save for the inclusion of canine accommodation and associated waste storage.
- Residential development is not supported at the site unless a demonstrable economic or social need to live in the rural area has been established. The

applicant has not met the required criteria to demonstrate exceptional circumstances requiring that they live at the application site, a key reason being that the proposed business is not permitted within the zoning of the site. As such the first refusal reason of Reg. Ref. SD25A/0137W has not been overcome.

- As the justification for the proposed location cannot be supported by the establishment of the business, the applicant has not justified the setting aside of Policy H16. As such the applicant has not demonstrated a need for rural housing at the subject location and has not established why the proposal is required in a high amenity rural area under strong urban influence and not within an existing settlement. As such the second refusal reason of Reg. Ref. SD25A/0137W has not been overcome.
- CDP Policy H19 requires all criteria to be met where a proposal for a dwelling in this location is to be considered. The applicant has failed to provide documentation supporting 'exceptional circumstances' under Policy H19 and Section 12.6.9 of the CDP. Refusal is recommended.
- The site is located within the Hills Landscape Character Type and Athgoe and Saggart Hills Landscape Character Area as per Appendix 9 of the CDP. This Landscape Character Type is of High Sensitivity and the Landscape Character Area is of Medium to High Sensitivity. No contiguous elevations or site sectional drawings are provided, and the full extent of development proposed on site is not captured. It is considered that the proposal would, by itself and the precedent it would set for similar development along this stretch of road, result in haphazard and ribbon development.
- Insufficient information provided to confirm the proposal would not have a negative impact from a landscape and visual impact perspective. As such the fourth refusal reason of Reg. Ref. SD25A/0137W has not been overcome.
- Existing road network remains substandard and there is no assessment of the impact of the proposed development and the precedent it would set for further similar development along this stretch of road and in the surrounding area. No evidence is provided of improved road conditions or infrastructure and/or sufficient justification for the proposed development. As such the fifth refusal reason of Reg. Ref. SD25A/0137W has not been overcome.

- Refusal of permission is recommended.

3.2.2. Other Technical Reports

Roads (30th March 2026) – Refusal recommended

- The rural road network at this location is described as substandard, narrow in width, with poor vertical and horizontal alignment. It is stated that the road lacks pedestrian, public lighting and drainage facilities. The report considers that the road network in the area is incapable of catering for the continuation of ribbon development. It concludes that the proposed development would endanger public safety by reason of traffic hazard.

Public Realm (10th April 2026) – Further Information (FI recommended)

- A fully detailed Landscape Plan prepared by a suitably qualified landscape architect is required in addition to a Green Infrastructure Plan.
- Details of a drainage scheme compliant with SDCC SuDS Design Guide is required to be submitted.
- Provide a Tree and Hedgerow Protection Plan and an Arboricultural Method Statement.

EHO Department (8th April 2026)

- The Site Characterisation Report (SCR) and its findings are acceptable, subject to conditions.
- Conditions outlined for other aspects of the proposed development.

3.3. Prescribed Bodies

No reports on file.

3.4. Third Party Observations

None.

4.0 Planning History

Subject site

Reg. Ref. SD25A/0137W refers to an August 2025 decision to refuse permission to the applicant for a single storey house, septic tank and upgraded entrance on the site at Lynch Park Road, Brittas, Co. Dublin. The five refusal reasons align and accord with those made under the current planning application, the subject of this appeal.

5.0 Policy Context

5.1 County Development Plan (CDP)

The operative Plan is the South Dublin County Development Plan 2022-2028 in which the subject site and adjoining lands are zoned 'HA-DM' (High Amenity Dublin Mountains) with the objective 'To protect and enhance the outstanding natural character of the Dublin Mountains Area.'

Within the 'HA-DM' zoning, 'Residential' is 'Open for Consideration' in accordance with Council policy for residential development in rural areas. Such development is 'Not permitted above the 350m contour.' 'Boarding Kennels' are 'Not Permitted' under the 'HA-DM' zoning objective.

The CDP interactive map indicates the following layers applicable to the appeal site:

- Birds Hazards – Casement
- Conical Surface – Casement

The site is located within/in close proximity to both the Rural Fringe Primary GI corridor and the Camac River Primary GI Corridor (Figure 4.4 of the GI Strategy Map of the CDP refers).

The site is located within the Athgoe and Saggart Hills Landscape Character Area (LCA) which is an LCA of Foothills type classification. Appendix 9 contains the updated Landscape Character Assessment for South Dublin.

Development Plan Variations

Variation No. 1 relating to the Clondalkin Local Planning Framework was made at the Council meeting on 9th March 2026 and had immediate effect. It is integrated into the CDP as Appendix 13.

Variation No. 2 relates to the adoption of the National Planning Framework – First Revision.

Variation No. 2 was placed on public display for a period of 4 weeks commencing on the 13th February to 13th March 2026. At the end of the display period a total of 2,678 no. submissions had been received in response to that public consultation process. A Chief Executive's Report on the submissions received, was issued to the Elected Members for their consideration as part of the statutory planning process.

Following the Special Council meetings held in June 2026, and having considered the Proposed Variation No. 2 to the County Development Plan 2022-2028 and the Chief Executive's Report in respect of submissions / observations received, the Elected Members resolved in accordance with Section 58(13)(a)(ii) of the Planning and Development Act 2024 (as amended), that South Dublin County Council proposes to make Material Alterations to Variation No. 2 to the County Development Plan 2022-2028.

The proposed Material Alterations were put on public display and written observations could be made between 7th July 2025 to 5th August 2026.

Variation No. 2 has not been made to date.

Chapter 2 relates to Core Strategy and Settlement Strategy

Policy CS11: Rural Areas

Recognise that the rural area of South Dublin County is an area under strong urban influence for housing and restrict 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.

CS11 Objective 1: To implement the Rural Settlement Strategy contained in Chapter 6: Housing.

Chapter 3 relates to Natural, Cultural and Built Heritage and relevant policies include:

Policy NCBH1: Overarching

Protect, conserve and enhance the County's natural, cultural and built heritage, supporting its sensitive integration into the development of the County for the benefit of present and future generations.

Policy NCBH2: Biodiversity

Protect, conserve, and enhance the County's biodiversity and ecological connectivity having regard to national and EU legislation and Strategies.

NCBH11 Objective 5: To ensure that intact hedgerows / trees will be maintained above the 120m contour line within the County ensuring that the strong rural character will not be diluted and that important heritage features and potential wildlife corridors are protected.

Policy NCBH14: Landscapes seeks to 'Preserve and enhance the character of the County's landscapes, particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.'

Policy NCBH15 relates to preserving views and prospects.

Chapter 4 relates to Green Infrastructure and relevant policies include:

Policy GI1: Overarching which seeks to protect, enhance and further develop a multifunctional GI network.

Policy GI2: Biodiversity seeks to strengthen the existing Green Infrastructure (GI) network and ensure all new developments contribute towards GI. **Objective 4** which seeks to incorporate such infrastructure into the design and layout of new development.

Policy GI7: Landscape, Natural, Cultural and Built Heritage seeks to protect, conserve and enhance landscape, natural, cultural and built heritage features, and support the objectives and actions of the County Heritage Plan. **Objective 2:** To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, in accordance with the provisions of South Dublin's

Landscape Character Assessment and the provisions of Chapter 3: Natural, Cultural and Built Heritage of this Development Plan.

Table 4.1 outlines Strategic Green Infrastructure Corridors.

Strategic Corridor 5 is the Camac River Corridor which interfaces between urban and rural parts of the County, with its origins in the foothills of the Dublin Mountains.

Strategic Corridor 6 is the Rural Fringe Corridor which provides a link between the foothills of the Dublin Mountains and lands at Wicklow to the south.

Section 6.9 of the CDP relates to Rural Housing Strategy and is introduced with the following commentary:

NPO 19 of the National Planning Framework requires a distinction to be made between rural areas under urban influence, that is within the commuter catchment of cities and large towns and centres of employment, and elsewhere. Based on the definition under the MASP, the entire rural area of South Dublin is under strong urban influence.

Accordingly, the NPO outlines that for rural areas like South Dublin County, the Development Plan should 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. This approach follows on from the Rural Housing Guidelines (2005) and Circular SP 5 / 08. The County Development Plan seeks to strike a balance between facilitating housing for people who have a genuine need to live in rural areas of the County and that will contribute to the rural community and economy, while protecting such areas from urban generated housing and housing that would adversely impact on landscape character, environmental quality and visual amenity

Relevant Policy is set out as follows:

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.

Policy H17: Rural Housing Policy and Local Need Criteria

Consider 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 1: To commence a review of the Rural Housing Policy and Local Need Criteria within six months of the adoption of the Plan and to include a public consultation as part of this process.

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.

Policy H18: Rural Housing in RU Zone

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 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.

Policy H19: Rural Housing in HA - Dublin Mountains Zone

New or replacement dwellings within areas designated Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) will only be considered in exceptional circumstances.

H19 Objective 1: To consider new or replacement dwellings within areas designated with Zoning Objective 'HA-Dublin Mountains' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) in the following exceptional circumstances where **all** of the criteria below are met:

- The applicant is a native of the area; and
- The applicant can demonstrate a genuine need for housing in that particular area; and
- The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming; and
- The development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.

These criteria are in accordance with the Sustainable Rural Housing Guidelines (2005), having regard to the outstanding character of the area and the need to preserve the environmental and landscape quality of this area.

The above criteria to be considered alongside the need to sustain and renew established rural communities and to ensure the viability of amenity, including local schools and the need to accommodate genuine rural housing needs where they arise.

H19 Objective 2: To generally prohibit development within restricted areas identified on the Bohernabreena / Glenasmole Reservoir Restricted Areas Map contained in Appendix 5.

Policy H23 'Rural Housing and Extension Design' states 'Ensure 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: Ensure 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 less than 10) 2021 except where planning permission was granted prior to 7th June 2021 in which case the EPAs Code of Practice Wastewater Treatment Systems Serving Single Houses 2009 applies; and
- Would not create or exacerbate ribbon or haphazard forms of development.

Section 12.6.9 'Rural Housing' sets out the criteria in detail on which applications for rural housing on lands that are designated with Zoning Objective 'RU,' 'HA-DM,' 'HA-LV' and 'HA DV' will be assessed.

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 waste treatment*

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

5.2 National Policy

Revised National Planning Framework (NPF)

The First Revision of the NPF was approved by the Houses of the Oireachtas following the decision of Government on 8th April 2025 to approve the Final Revised NPF. Relevant objectives include:

National Policy Objective (NPO) 24: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

NPO 28: Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural*

settlements;

- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*

While the First Revision of the NPF (2025) is the subject of Variation No. 2 of the South Dublin County Development Plan 2022-2028 which has not been made to date, I note that the text of NPO 28 is replicated in the First Edition of the NPF from NPO 19 of the NPF (2018).

5.3 **Sustainable Rural Housing Guidelines for Planning Authorities 2005**

The appeal site is located within a rural area under strong urban pressure. The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

Section 3.2.3 sets out general criteria for considering whether a person is an intrinsic part of the rural community:

‘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.’

Circular Letter SP 5/2008 – Rural Housing Policies and Local Need Criteria in Development Plans was issued after the publication of the guidelines. It emphasises that ‘all planning applications for houses in rural areas, regardless of where the applicant comes from or whether they qualify under specific criteria, must continue to

be determined on the basis of the proper planning and sustainable development of the area, in accordance with development plan policies regarding over-arching environmental concerns, including the protection of natural assets, landscape, siting and design, traffic safety etc.’

The Circular Letter also states the following:

‘Development plan policies based on section 3.2.3 (“Rural generated housing”) of the Sustainable Rural Housing Guidelines should continue to apply, in that persons who are an intrinsic part of the rural community, or persons working full-time in rural areas, should be favourably considered in relation to rural housing. Notwithstanding the above, a bone fide applicant who may not already live in the area, nor have family connections there or be engaged in a particular employment or business classified within the local needs criteria, should be given due consideration within the proper planning and sustainable development objectives for the area subject to the following considerations:

- such applicants may reasonably be required to satisfy the planning authority of their commitment to operate a full-time business from their proposed home in a rural area, as part of their planning application, in order, for example, to discourage commuting to towns or cities;
- that they outline how their business will contribute to and enhance the rural community; and
- that they satisfy the planning authority that the nature of their employment or business is compatible with those specified in the local needs criteria for rural areas so as to discourage applicants whose business is not location dependent (e.g. telesales or telemarketing).’

Circular Letter PL 2/2017, Department of Housing, Planning, Community and Local Government

The European Commission originally issued an infringement notice against Ireland in 2007 in relation to the “local needs criteria” in the 2005 Guidelines. This infringement notice was subsequently deferred pending the outcome of an infringement case taken against Belgium, now referred to as the Flemish Decree case and on which the European Court of Justice (ECJ) delivered its Judgement in 2013. In this Judgement,

the ECJ ruled that the Flemish Decree constituted an unjustified restriction on fundamental freedoms under the Treaty on the Functioning of the European Union (the EU Treaty), in particular that it breached article 43 of the EU Treaty on the freedom of movement of citizens.

Further to the ECJ Judgement in the Flemish Decree case, the European Commission re-engaged with the Department regarding the 2007 infringement notice and its previously expressed concerns in relation to the “local needs criteria” in the 2005 Guidelines, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. Requirements that planning applicants have occupational or employment related ties to the rural area in question is not considered problematical in this context as such criteria are non-discriminatory between locals and non-locals.

Planning authorities were advised that the existing 2005 Guidelines remain in place and that pending the conclusion of the two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the cyclical review or variation procedures. This was considered prudent in order to avoid planning authorities adopting different approaches on the matter in the interim.

5.4 Regional Policy

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

RPO 4.80 of the RSES states that Local Authorities shall manage urban generated growth in Rural Areas under Strong Urban Influence (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 rural settlements.

5.5 Natural Heritage Designations

Wicklow Mountains SAC (Site Code 002122) is located c.5.7km to the south east and Wicklow Mountains SPA (Site Code 0004040) is approximately 9km to the south east. Glenasmole Valley SAC (Site Code 001209) and pNHA (Site Code 001209) is located approximately 5.7km to the east. Slade of Saggart and Crooksling Glen pNHA (Site Code: 000211) is located approximately 0.67km to the east.

6.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

This is a first party appeal submitted on behalf of Reece Downes, Meagans Lane, Saggart, Co. Dublin.

7.1. Grounds of Appeal

The grounds of appeal may be summarised as follows, using headings outlined in the appeal:

Strategic Settlement Policy

- The first refusal reason considers that residential development is not supported at the site unless a demonstratable economic or social need to live in the rural area has been established. As per the report provided with the planning application, there are a number of ways in which an applicant can qualify for a house in rural Co. Dublin. One of these ways is to establish a new rural business.
- The applicant satisfies Circular SP5/08 and this was overlooked by the planning authority. This Circular is recognised by the Council and is subsumed into *Policy H17 – Rural Housing Policy and Local Need Criteria* of the CDP.

- It is considered that the planning authority did not give the applicant a fair hearing. The planning report did not consider the nature of the development or conclude that canine accommodation is wholly inappropriate in the countryside.
- The first refusal reason is based on the non-application of a key policy; at no stage do the Council's internal papers consider whether the proposal complies with Policy H17.
- There is no analysis or explanation as to why the applicant should not live at his place of business.
- There is no explanation as to why the applicant should not live at his place of business. The development should be considered in the light of *Circular SP5/08* and Policy H17. It is not necessary for an applicant to also comply with the remaining eligibility provisions.

Settlement Strategy

- The second refusal reason focussing on policy H16 ignores the fact that the proposed canine accommodation cannot locate in urban or suburban areas. The Council sought to overlook these provisions.
- At no stage does the planning report consider points raised in the report provided with the application. The Council does not consider the key point in terms of compliance with Policy H17.

'HA-DM' Zoning Objective

- The Council's third concern leapfrogged the most relevant provision, policy H17 and progressed directly to policy H19, concluding that this provision had not been satisfied. Objective 1 of H19 identifies four criteria for consideration however the planning report does not apply these provisions and does not identify the requirement which is being breached.
- Should ACP endorse the local authority's approach it should consult with the European Commission on the legality of policy H19 Objective 1. It is considered that this objective offends the EU principles which relate to the free movement of peoples as established under *Libert and Others* (the Flemish Decree case).

- Submitted documentary evidence shows how the applicant previously lived at Ballyfolan, Brittas (2002-2009) and now resides at Meagans Lane, Saggart (2009 to date) and that they have close family ties in the area.

Green Infrastructure

- There is no actual woodland on the site as suggested by the fourth refusal reason; the commercial tree cover originally planted by Coillte has been harvested.
- The Council's attempt to link tree cover on the land with certain green infrastructure policies in the CDP is bogus and at variance with these particular provisions, which take the form of planning objectives for the Council to achieve.
- No part of the fourth refusal reason claims that planning, amenity or environmental harm would arise from this application, in terms of the achievement of these green infrastructure objectives.
- The analysis set out in the reason takes the form of a policy narrative rather than a specific criticism of the manner in which the proposal would adversely affect the environment and does not contain an objection to the development which supports a reason for refusal.
- In this context, reference is made to section 7.15 of the Development Management Guidelines entitled 'Refusals arising from development plans or local area plans.' This notes, inter alia, that 'A statement of objectives in a development plan should not be regarded as imposing a blanket prohibition on particular classes of development and does not relieve the planning authority of responsibility for considering the merits or otherwise of particular applications.'

Traffic Safety

- The carriageway which runs between the N81 and the appeal site is of a type found in rural areas nationwide which are suitable for traffic movements associated with agricultural operations and rural dwellings.
- The road is lightly trafficked and not subject to any limitations on the height or weight of vehicles using the road.
- There is no reference made in the assessment of the location being a designated black-spot in terms of previous incidents or accidents.

- The planning authority may have over-stated the density of rural housing in this area referencing ribbon development and saturation of one-off houses.
- Applicant disagrees with the Council's traffic safety concerns.

Conclusion

- Request that permission be granted for this mixed-use, canine and residential development.

The following information is included with the first party appeal:

- An aerial image of the applicant's previous family home (Ballyfolan, Brittas, Co. Wicklow) relative to the subject lands, indicated to be located c.4.6km from the lands.
- An aerial image of the applicant's current family home (Meaghan's Lane, Saggart, Co. Dublin) relative to the subject lands, indicated to be located c.2.km from the lands.
- Letter from applicant's employer confirming his employment, which is based in Co. Wicklow.
- Copy of a letter from applicant's solicitor confirming purchase of the subject lands by the applicant.
- A copy of the applicant's Birth Certificate.
- Copies of statements from financial institutions issued to the applicant at his address in Saggart.
- Copies of correspondence from the Revenue Commissioners dated 2024 and 2025 issued to the applicant at his address in Saggart.
- Copy of a bill addressed to the applicant in Saggart.
- Letter from GAA Club in support of the applicant.
- Letters from schools attended by the applicant.

I note reference is made in the first party appeal to the planning report prepared on behalf of the applicant and submitted with the planning application. This report largely presents a rebuttal of the refusal reasons associated with the applicant's previous application on the subject lands (Reg. Ref. SD25A/0137W refers).

Associated matters raised in relation to the application, the subject of this appeal include the following:

- This second application on the lands now includes a canine accommodation business. The applicant complies with Circular SP5/08 and with Housing Policy H17 of the CDP. It is not necessary for an applicant to also comply with the remaining eligibility provisions.
- While the second and third refusal reasons under the previous application also relate to rural housing eligibility criteria, however, because the applicant already satisfies Circular SP5/08 and Policy H17, these supersede the concerns raised.
- The stipulation that only natives can qualify for a rural dwelling breaches EU law.
- The proposed canine accommodation enterprise is a rural business and appropriate to the rural area.

7.2. Planning Authority Response

The planning authority's response considers that issues raised in the appeal have been covered in the Chief Executive's Order.

7.3. Observations

None.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider the substantive issues in this appeal to be considered are as follows:

- Compliance with Rural Housing Policy
- Impact on sensitive landscape
- Traffic and Sightlines / Traffic Hazard
- Wastewater Treatment
- Material Contravention

8.2. Compliance with Rural Housing Policy

- 8.2.1. The first three reasons of the planning authority's decision refer, inter alia, to non-compliance with the rural housing policy for the area, citing a number of applicable policy requirements in this context, as outlined further, below.
- 8.2.2. The first refusal reason refers to non-compliance with the rural housing policy as set out in the County Development Plan (CDP), National Planning Framework and Regional Spatial and Economic Strategy.
- 8.2.3. The second refusal reason considers the applicant has failed to provide justification for the setting aside of Policy H16 which restricts urban generated dwellings in Rural ('RU'), Dublin Mountain ('HA-DM'), Liffey Valley ('HA-LV') and Dodder Valley ('HA-DV') zones, and therefore that the proposed development materially contravenes the objectives of the CDP.
- 8.2.4. The third refusal reason notes that new or replacement dwellings in areas zoned 'HA-DM' will only be considered in exceptional circumstances subject to criteria in Objective 1 of Policy 19 and that it has not been satisfactorily demonstrated the proposal would comply with all criteria in this policy for housing in the area; it is concluded that the proposed development would therefore materially contravene the 'HA-DM' zoning objective.
- 8.2.5. The appeal site is located in the open countryside on lands zoned 'HA-DM' (High Amenity-Dublin Mountains) in the current South Dublin County Development Plan 2022-2028. As outlined in CDP Policy CS11, rural areas of South Dublin County, including the subject lands, are under strong urban influence for housing.
- 8.2.6. Rural Housing Policy is outlined in Section 6.9 of the CDP and it takes into account the Sustainable Rural Housing Guidelines for Planning Authorities 2005 and Circular Letter SP 5/08 (Rural Housing Policies and Local Need Criteria in Development Plans), which was issued after the publication of the guidelines.

- 8.2.7. Policy H16 (Management of Single Dwellings in Rural Areas) seeks to restrict the spread of urban generated dwellings in rural areas including the Dublin Mountain HA-DM zone. Policy H17 (Rural Housing Policy and Local Need Criteria) states it is policy to consider 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 (2005) and Circulars. Policy H19 (Rural Housing in HA – Dublin Mountains Zone) states new dwellings within areas designated Zoning Objective ‘HA-DM’ will only be considered in exceptional circumstances. H19 Objective 1 states that all of the criteria must be met by an applicant to be considered for a dwelling.
- 8.2.8. The appellant has provided some details in order to demonstrate compliance with the Rural Housing Policy and I have outlined these in section 7 of this report.
- 8.2.9. The proposed development relates to the construction of a rural house, installation of a septic tank, provision of an upgraded entrance to the lands, and construction of 18 no. kennel cubicles to facilitate the development of a new canine accommodation business from the lands. As set out in the Planning Report provided with the application, it is intended that the applicant would operate the boarding kennel business from the proposed new rural dwelling. Based on the information provided in the application, it is the case that compliance with the rural housing policy is contingent on the development of the proposed canine accommodation / kennel business.
- 8.2.10. Appendix 6 of the CDP ‘Definition of Use Classes’ defines ‘Boarding Kennels’ as ‘A building or part thereof or land used for the temporary accommodation of dogs/cats for payment.’ The nature of the applicant’s proposed business as detailed in the application and submitted business plan aligns with the ‘Boarding Kennels’ use class definition as outlined above.
- 8.2.11. I note that Table 12.12 of the CDP sets out the Use Classes relating to the ‘HA-DM’ Zoning Objective and confirms that ‘Boarding Kennels’ are ‘Not Permitted’ on lands subject to that Zoning Objective, which comprises the appeal lands. I conclude therefore that the proposed canine accommodation business would materially contravene the CDP. On this basis and given that the planning application for a rural

house is predicated on the development of canine accommodation / boarding kennels business on the lands, I recommend that permission be refused. I also consider that the proposed business would likely serve customers from urban areas and as such would constitute an urban generated development.

8.2.12. In the appeal, the applicant's agent states that the planning authority's report did not consider the nature of the development or conclude that canine accommodation is wholly inappropriate in the countryside. In my opinion, it is clear that the boarding kennel proposal is considered in the planner's report, which finds that it would materially contravene the zoning objective of the site. The fact of the matter is that, based on the CDP (Table 12.12, 'Use Classes Related to Zoning Objective') the proposed boarding kennel use on the subject lands is not permitted, as outlined above. I note the planning report proceeds to note that boarding kennels use is open for consideration on lands zoned RU (Rural) and REGEN (Regeneration), and permitted in principle on lands zoned EE (Enterprise and Employment).

8.2.13. Residential development is 'Open for Consideration' in the 'HA-DM' Zoning Objective (Table 12.12 refers) in accordance with Council policy for residential development in rural areas. However having regard to the foregoing, I concur with the planning authority that the justification for the proposed location cannot be supported by the establishment of the canine accommodation business, which is not permitted, based on the 'HA-DM' Zoning Objective applicable to the subject lands. In my view, the applicant has not demonstrated a need for rural housing at the subject lands. I note that Policies CS11 'Rural Areas' and H16 'Management of Single Dwellings in Rural Areas' seek to restrict the spread of urban generated housing in the 'HA-DM' zone and focus such housing into existing settlements, in accordance with the Settlement Strategy.

8.2.14. The appeal contends that the Council did not consider the proposal in terms of compliance with Policy H17: Rural Housing Policy and Local Need Criteria. The opening paragraph of this policy states the following: *Consider 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.

8.2.15. H17 Objective 1 relates to the commencement of a review of the Rural Housing Policy and Local Need Criteria within six months of the adoption of the Plan. H17 Objective 2 relates only to prospective applicants for a rural house on RU zoned lands only.

8.2.16. Having reviewed Policy H17 including Objective 2, it is my opinion that it relates to and is confined to new housing on RU zoned lands only and that it does not extend to the appeal lands, which are located in the 'HA-DM' zoning.

8.2.17. In my view Policy H19: Rural Housing in HA-Dublin Mountains Zone is particularly relevant and applicable to the proposed development, given its proposed location within the 'HA-DM' zone. This Policy notes that new or replacement dwellings in the HA-DM zone will only be considered in exceptional circumstances.

8.2.18. H19 Objective 1 sets out four criteria, all of which must be met, as follows:

- The applicant is a native of the area; and
- The applicant can demonstrate a genuine need for housing in that particular area; and
- The development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming; and
- The development would not prejudice the environmental capacity of the area, and it would be in keeping with the character of the mountain area.

8.2.19. Based on the information provided with the planning application, I note the following in terms of compliance with the above-mentioned criteria;

The applicant resides c.2.8km from the subject lands, on RU zoned lands at Saggart, Co. Dublin, since 2009. Prior to this he resided in the rural area at Brittas, Co. Wicklow. As such, I consider the appellant complies with the first element of Policy H19 Objective 1.

- 8.2.20. The applicant has proposed boarding kennels on the subject lands which would require a new house to be constructed there. However, as outlined above, boarding kennels are 'Not Permitted' within the 'HA-DM' zoning objective applicable to the site. This rural area is subject to a high level of protection having regard to the applicable 'HA-DM' zoning objective and is under strong urban influence for new rural dwellings, as noted in CDP Policies CS11 'Rural Areas' and H16 'Management of Single Dwellings in Rural Areas.' On the basis of the information provided, I consider that an exceptional need for housing at the subject location has not been demonstrated by the appellant. I consider the appellant's circumstances do not constitute a genuine need for housing at this particular area and as such the appellant does not, in my opinion, comply with the second element of Policy H19 Objective 1.
- 8.2.21. In terms of the third element of H19 Objective 1, the appellant has been unsuccessful in demonstrating that their proposed employment in respect of the proposed canine accommodation business is directly related to the area's amenity potential or to its use for agriculture, mountain or hill farming. I therefore conclude that the appellant does not comply with the third element of Policy H19 Objective 1.
- 8.2.22. The final element of H19 Objective 1 relates to the environmental capacity of the area and the character of the mountain area. This is addressed under Section 8.4 (Impact on sensitive landscape) below.
- 8.2.23. I consider that the appellant does not satisfy the qualifying criteria for a rural generated house as set out under National Policy Objective 28 of the Revised National Planning Framework (2025). This requires that an economic or social need to live within rural areas under urban influence is demonstrated in facilitating the provision of rural dwellings.
- 8.2.24. The applicant's agent has raised concerns regarding the legality of H19 Objective 1 of the CDP, stating that the objective offends the EU principles which relate to the free movement of peoples as established under Libert and Others (the Flemish Decree).
- 8.2.25. I note the content of Circular Letter PL 2/2017 which includes that further to the ECJ Judgement in the Flemish Decree case, the European Commission re-engaged with

the Department regarding the 2007 infringement notice and concerns relating to “local needs criteria” in the Sustainable Rural Housing Guidelines for Planning Authorities 2005, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. It states also that requirements that applicants have occupational or employment related ties to the rural area in question is not considered problematic as such criteria are non-discriminatory between locals and non-locals. Planning authorities were advised that the existing Guidelines 2005 remain in place and that pending the conclusion of the two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the cyclical review or variation procedures.

- 8.2.26. Having regard to the matters outlined above including that the existing 2005 Guidelines remain in place, I consider that this particular case has been adequately and appropriately assessed with reference to H19 Objective 1 of the South Dublin County Development Plan 2022-2028 and with reference to the Sustainable Rural Housing Guidelines for Planning Authorities 2005.
- 8.2.27. To conclude, the applicant has not met all of the criteria as outlined in H19 Objective 1 and therefore does not come within the scope of exceptional circumstances referred to in Policy H19.
- 8.2.28. Based on the foregoing, I conclude that the appellant has not demonstrated a need for rural housing on the subject lands zoned ‘HA-DM.’ If permitted, the proposed would materially contravene Zoning Objective ‘HA-DM’ of the CDP and would also materially contravene Policy H16 and Policy H19 Objective 1 of the CDP. As such, I conclude that the proposed development would not be compliant under the provisions of the South Dublin County Development Plan 2022-2028 in terms of the issue of rural housing policy.

8.3. Impact on sensitive landscape

- 8.3.1. The planning authority's fourth refusal reason relates to the negative impact the development of the site would, by itself and by the precedent it would create, have on the landscape, that it would undermine the strategic green infrastructure network in the county, and that it would be contrary to county policy to protect the environmental and ecological capacity of sites in the Dublin Mountains.
- 8.3.2. I note that this refusal reason states the proposed development would breach several listed CDP policies and objectives, many of which, upon examination, are strategic in nature.
- 8.3.3. The appellant is critical of this refusal reason, noting that there is no woodland remaining on the site as suggested, because the commercial tree cover planted by Coillte has been harvested. The appellant also considers that this refusal reason takes the form of a policy narrative rather than specific reasoning as to how the proposal would adversely affect the environment.
- 8.3.4. I have reviewed those policies which are high level, overarching and strategic policies/objectives listed in this refusal reason. I do not consider that the proposed development would warrant a refusal of permission on the basis of these policies and objectives, having regard to their strategic nature, when assessed against the nature of the proposed development, consisting of a single house.
- 8.3.5. The final criterion set out in Policy H19: Rural Housing in HA-Dublin Mountains Zone – Objective 1, is that the development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area.
- 8.3.6. There are multiple one-off rural dwellings in the vicinity of the lands, located south-east of the site on both sides of Lynch Park Road. The proposed rural dwelling consists of three volumes, is of single storey design and external finishes comprise a tiled roof and plaster finish for the walls. The floor area of the dwelling is given as c.236sqm and its maximum height is c.5.16m. The proposed boarding kennels are located to the rear of the dwelling. The proposed development is accessed by a gravel driveway and is

set back c.18m from the newly upgraded vehicular entrance to the site and the roadside boundary.

- 8.3.7. The subject lands are located in an area zoned Objective HA-DM and the Zoning Objective is 'To protect and enhance the outstanding natural character of the Dublin Mountains Area.' The site is located within the Hills Landscape Character Type and Athgoe and Saggart Hills Landscape Character Area as per Appendix 9 of the CDP. This Landscape Character Type is of High Sensitivity and the Landscape Character Area is of Medium to High Sensitivity and a negligible to low landscape capacity.
- 8.3.8. I consider that the elevated nature of the lands, the siting of the proposed development broadly to the centre of the site and the limited roadside screening currently does not allow for its successful integration within the lands and the landscape at this highly sensitive location. In my opinion the proposed development would be contrary to GI7 Objective 2 of the South Dublin County Development Plan which seeks 'to protect and enhance the landscape character of the county,' and would also be contrary to Policy NCBH14: Landscapes, to 'Preserve and enhance the character of the County's landscapes, particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.' I consider that the proposal would adversely impact upon the character of the mountain area, would negatively impact on the sensitive landscape and natural beauty of this rural area by contributing to the erosion of its character and would set an undesirable precedent for other such prominently located development in the vicinity. For these reasons the proposal would also be contrary to the fourth element of Policy H19 Objective 1.
- 8.3.9. Having regard to the foregoing, I am of the opinion that the planning authority's refusal reason number 4 as it relates to impact on the landscape should be upheld.

8.4. Traffic and Sightlines / Traffic Hazard

- 8.4.1. The final refusal reason is informed by the Roads Department report which states that the proposed development would be located on a substandard rural road network

which is narrow in width, has poor vertical and horizontal alignment and without adequate facilities for pedestrians and vulnerable road users would endanger public safety by reason of traffic hazard.

- 8.4.2. At the site inspection I noted that the section of Lynch Park Road serving the area and in the vicinity of the site is in good condition and appears to have been resurfaced in recent times. The carriageway is sufficiently wide to allow two cars to pass each other, subject to drivers reducing speed.
- 8.4.3. The default speed limit on this road is 60km/h and as such sightlines of 90m in both directions from the proposed access are required in this instance. I note the applicant has provided a sightline on the submitted site plan which indicates achievement of 90m sightlines in both directions from the proposed upgraded entrance.
- 8.4.4. From my site visit it is apparent that the required sightlines would be available from the proposed entrance. Having regard to the foregoing I do not concur with the planning authority's opinion that the proposed development would endanger public safety by reason of traffic hazard. In this context, I recommend that this refusal reason be omitted.

8.5. Wastewater Treatment

- 8.5.1. The proposed development involves installation of a septic tank (6PE design capacity) to discharge to a subsurface trench percolation area. The submitted Site Characterisation Form identifies the appeal site as located in an area with a poor aquifer where the bedrock vulnerability is Extreme. A groundwater protection response of R21 for the site is noted. I note the suitability of the site for a treatment system subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with the EPA Code of Practice (CoP): Domestic Waste Water Treatment Systems 2021).
- 8.5.2. The trial hole depth referenced in the Site Characterisation Form is 2.1m. No bedrock was encountered at the excavated depth of 2.1m. The water table was not encountered. The soil conditions found in the trial hole between depths of 0.1m to 0.2m are described as slightly sandy gravelly silt/clay and as very sandy, very gravelly

silt/clay with cobbles and shale content at a depth of 0.8m. Percolation test holes were dug and pre-soaked. A T value / subsurface percolation value of 27 was recorded. Based on the EPA CoP 2021 (Table 6.4), the site is suitable for a number of treatment system types, namely a septic tank and percolation area, a secondary treatment system and soil polishing filter and a tertiary treatment system and infiltration area. I did not observe the trial holes at the time of my site inspection.

8.5.3. The Site Characterisation Form concludes that the site is suitable for the treatment of wastewater. I am satisfied the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. It is proposed to install a conventional septic tank unit discharging to a constructed subsurface trench percolation area, which shall consist of 6 no.18m trenches constructed in accordance with the CoP. In this regard I would note that the proposed bored well is at a significant remove from the proposed septic tank and percolation area.

8.5.4. Based on the information provided, it is considered that soil conditions are favourable for the treatment of wastewater. I note the report on file from the EHOs Department confirming that the submitted Site Characterisation Report, its findings and the comments from the assessor are acceptable. The EHO report recommends inclusion of a condition relating to installation and maintenance of the proposed wastewater treatment system.

8.6. **Material Contravention**

8.6.1. The Commission will note that the planning authority's second and third refusal reasons state that the proposed development would materially contravene the South Dublin County Development Plan 2022-2028.

8.6.2. As such, Section 37(2)(b) of the Planning and Development Act 2000, as amended, is applicable and states the following:

‘(2) (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that:

(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 spatial and economic strategy 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.'

- 8.6.3. Having considered this file, the provisions of the South Dublin County Development Plan 2022 to 2028 and Section 37(2)(b) of the 2000 Act, I am of the view that the planning authority's conclusion that the proposed development would materially contravene the CDP is reasonable. In the circumstances, the Commission would be required to address the criteria outlined in Section 37(2)(b) should it be minded to grant permission for the proposed development.

9.0 AA Screening

- 9.1.1. I have considered the proposed development comprising the construction of a single storey rural house, installation of a septic tank and percolation area, an upgraded entrance along with a proposal to commence a canine accommodation business involving the construction of 18 no. kennel cubicles and all associated site works in the light of the requirements of Sections 177S and 177U of the Planning and Development Act 2000, as amended.
- 9.1.2. The proposed development is not located within or immediately adjacent to any European Site. The nearest European Sites are Wicklow Mountains SAC and Glenasmole Valley SAC, both located c 5.7km from the subject lands.

9.1.3. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because it could not have any effect on a European Site.

The reasons for this conclusion are as follows:

- Relatively small scale and nature of the proposed development.
- Location-distance from nearest European Sites and lack of connections.
- Absence of any meaningful and indirect pathways to any European Site.
- Taking into account the screening determination of the planning authority.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site wither alone or in combination with any other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000 as amended) is not required.

10.0 **Water Framework Directive (WFD) - Screening**

The proposed development relates to the construction of a single storey rural house, installation of a septic tank and percolation area, an upgraded entrance along with a proposal to commence a canine accommodation business involving the construction of 18 no. kennel cubicles and all associated site works. Surface water disposal is to be achieved by way of a soakpit. Water supply to be achieved by way of a bored well.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface and ground water bodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and groundwater water bodies either qualitatively or quantitatively. The reasons for this are as follows:

- The nature of the works comprising a relatively small scale of development.

- The lack of direct hydrological connections from the site to any surface and transitional water bodies.
- The proposal to incorporate soakpits as part of the proposed development.
- Standard pollution controls that would be implemented.

I conclude on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

12.0 Reasons and Considerations

1. The site is located in a rural area which is identified in the South Dublin County Development Plan 2022-2028, as a rural area under strong urban influence. Policy H16 (Management of Single Dwellings in Rural Areas) seeks to restrict the spread of urban generated dwellings in rural areas including in areas zoned 'HA-DM' and to focus such housing into existing settlements in line with the Settlement Hierarchy. Policy H19 (Rural Housing in HA-Dublin Mountains Zone) Objective 1 states that new or replacement dwellings in the Zoning Objective 'HA-Dublin Mountains' (to protect and enhance the outstanding natural character of the Dublin Mountains Area) will only be considered in the following exceptional circumstances where all of the following criteria are met: The applicant is a native of the area; and the applicant can demonstrate a genuine need for housing in that particular area; and the development is related directly to the area's amenity potential or to its use for agriculture, mountain or hill farming; and the development would not prejudice the environmental capacity of the area, and that it would be in keeping with the character of the mountain area. This policy is consistent with National Policy Objective 28, as set out in the Revised National Planning Framework 2025, which requires that in areas under urban

influence, applicants are required to demonstrate an economic or social need to live in the rural area. Having regard to the submissions made, it is considered that the applicant does not come within the scope of the housing need criteria for a house at this highly sensitive location. In the absence of an identified locally based need for a house on 'HA-DM' zoned lands, the proposed development would materially contravene the South Dublin County Development Plan 2022-2028, would contribute to the encroachment of random rural development in the area, and would militate against the conservation 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.

2. Having regard to the elevated nature of the site and the positioning of the proposed development thereon, and the limited front boundary and roadside screening, it is considered that the proposed development would fail to be adequately absorbed and integrated into the landscape at this sensitive location. The proposed development would adversely affect the character of the mountain area, would be contrary to Policy GI7 Objective 2 of the South Dublin County Development Plan 2022-2028 which seeks 'To protect and enhance the landscape character of the county,' and would also be contrary to Policy NCBH14: Landscapes, to 'Preserve and enhance the character of the County's landscapes, particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape Sensitivity and to ensure that landscape considerations are an important factor in the management of development.' The proposed development would negatively impact on the character of the sensitive landscape and natural beauty of this rural area, would erode and militate against the preservation of resources and amenities associated with this environment and would set an undesirable precedent for other such prominently located development in the vicinity. 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

John Duffy

Planning Inspector

3rd September 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501398-SD-26
Proposed Development Summary	Construction of a single storey slipped roof design bungalow. A septic tank discharging to a subsurface trench percolation area. The commencement of a canine accommodation business with eighteen kennel cubicles and all associated site works.
Development Address	Lynch Park Road, Brittas, Co. Dublin.
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project.' Proceed to Q.2.
	☐ No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold Class 10(b)(i) Construction of more than 500 dwelling units. The proposal involves the construction of one dwelling and boarding kennels.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501398-SD-26
Proposed Development Summary	Construction of a single storey slipped roof design bungalow. A septic tank discharging to a subsurface trench percolation area. The commencement of a canine accommodation business with eighteen kennel cubicles and all associated site works.
Development Address	Lynch Park Road, Brittas, Co. Dublin.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
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).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. The development would not result in the production of significant waste, emissions, or pollutants. No significant risks of accidents or to human health. No demolition works proposed.
Location of development (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).	Briefly comment on the location of the development, having regard to the criteria listed The size of the site at 0.376ha is not exceptional. The lands were previously covered by part of a Coillte commercial woodland, which has since been cleared from the site. Lands adjoining the site contain areas of woodland and mature trees. The proposed development is situated in a rural area on elevated lands, and zoned 'HA-DM' (High Amenity-Dublin Mountains), with the objective 'To protect and enhance the outstanding natural character of the Dublin Mountains Area.' The site is located within the Hills Landscape Character Type and Athgoe and Saggart Hills Landscape Character Area as per Appendix 9 of the CDP. This Landscape Character Type is of High Sensitivity and the Landscape Character Area is of Medium to High Sensitivity and a negligible to low landscape capacity. Slade of Saggart and Crooksling Glen pNHA (Site Code: 000211) is located approximately 0.67km to the east.

	The site is not located within or near any European Site. There is no hydrological connection present which would give rise to significant impact on water courses in the wider area.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects. Having regard to the modest nature of the proposed development, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
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. Not applicable to this appeal case.
There is a real likelihood of significant effects on the environment.	EIAR required. Not applicable to this appeal case.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)