Inspector's Report

PL-501688-SD-26

Development	An extended replacement 7 No. bed dormer/single storey dwelling with dormer family flat and 2 No. home base offices, set out in blocks, pursuant to the substantial demolition without planning permission of pre-existing dormer/single storey dwelling, relocated vehicular access via shared communal area, 1.45m high internal retaining wall, precast concrete septic tank and percolation area and permission sought for proposed dormer connecting link between blocks, entrance, front (north) boundary treatment, landscaping works, SuDS, adjust existing percolation area to be within 3m of eastern boundary and remaining ancillary site works/services.
Location	Lugg Lane, The Lugg, Saggart, County Dublin D24FV44
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD26A/0100W
Applicant(s)	Sean Kelly, Kenneth Kelly & Elaine O'Reilly Kelly
Type of Application	Retention Permission & Permission

Planning Authority Decision	Refuse Retention Permission and Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sean Kelly, Kenneth Kelly & Elaine O'Reilly Kelly
Observer(s)	None
Date of Site Inspection	15th October 2026
Inspector	Conor Hughes

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1.0 Site Location and Description

1.1. The site is in the open countryside approximately two-kilometres south of Saggart village in the townland of Lugg and is comprised of the buildings and partly constructed curtilage of a domestic dwelling house and associated ancillary accommodation.

1.2. The buildings are of masonry construction with a dry dash finish, a tiled roof, uPVC windows, composite doors and uPVC facia and gutters. The porch and part of the gable and side elevation of the living/dining room and kitchen block of the main dwelling remain unfinished.

1.3. At the rear is a partly constructed hard landscaped area and wall that retain a level garden behind. Beyond this the ground is steeply sloping and has been graded to take account of the level changes below.

1.4. At the front of the dwelling the land is hard cored and is used as hardstanding for the parking of cars. Beyond this the land is grass and falls away to the north and there is a line of trees on the boundary with the neighbouring properties.

1.5. The site is accessed via Lugg Lane approximately 900 metres from the junction with the L2005 Slade Road. A new private lane is constructed from the point at where it meets the driveway for the adjacent property and the land to the west and south of this reprofiled for a septic tank and soakaway.

1.6. The area surrounding the site is predominantly rural in character and mainly in agricultural or woodland use. There are other dwellings, ancillary outbuildings and other commercial buildings located immediately adjacent to the north and east of the site.

2.0 Proposed Development

2.1. The proposed development comprises substantial demolition without planning permission of a pre-existing chalet style dwelling; the retention of a seven-bedroom chalet style replacement dwelling and separate family flat and home base office; relocated vehicular access; 1.45-metre-high internal retaining wall; precast concrete septic tank and percolation area. Permission is also sought for proposed dormer link between the dwelling and family flat/offices; entrance; front (north) boundary treatment;

landscaping works; SuDS; adjustment to existing percolation area to be within three-metres of eastern boundary and ancillary site works/services.

3.0 Planning Authority Decision

3.1. Decision

- On 15th June 2026 the Planning Authority issued notification of their decision to refuse planning permission for the retention of the replacement dwelling, family flat and home office, internal retaining wall, relocated access, precast concrete tank and percolation area, proposed link between the dwelling and family flat/office; new entrance; proposed boundary treatment to northern boundary, adjustment to percolation area, SuDS and ancillary works for the following reasons.
- The application had not satisfied the mandatory criteria of policies H19 Objective 1 and H21 Objective 1 of the South Dublin County Development Plan 2022 – 2028 (the Development Plan) in relation to new and/or replacement dwellings in the HA - Dublin Mountains Zone ('HA-DM').
- Consequently, the Planning Authority considered the retention of the replacement dwelling represented unrestricted residential development contrary to policy H16 of the Development Plan which restricts the spread of urban generated dwellings in the 'HA-DM'.
- The development as proposed for retention and extended by reason its scale and massing and the associated site works had also not satisfied the requirements of policy H23 Objective 1 of the Development Plan because of the impact on the landscape, local ecological features and natural contours and natural drainage features and the use intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls.
- The cumulation of the proposed development was therefore in its totality contrary to the 'HA-DM' zoning objective 'To protect and enhance the outstanding natural character of the Dublin Mountains Area' and to the proper planning and sustainable development of the area.
- The Planning Authority further considered there was an absence of evidence of compliance with the EPA's Code of Practice for Domestic Wastewater Treatment

Systems and the septic tank proposed for retention was also not installed by a qualified engineer, registered contractor and/or by an appropriately trained and qualified assessor to ensure it meets strict environmental and building standards.

- In addition, no evidence was submitted to show that the submitted Site Characterisation Form was completed by an appropriately trained and qualified person. As such the proposed retention and proposed amendments to the on-site septic tank would be considered a public health risk and prejudicial to public health.

3.2. Planning Authority Reports

3.2.1 Planning Reports

- The Planning Authority identified the site within zoning objective 'HA-DM' which is designated 'to protect and enhance the outstanding natural character of the Dublin Mountains Area,' in the Development Plan.
- Residential development is 'open for consideration' under this zoning objective subject to it being in accordance with Council policy for residential development in rural areas.
- The site is located in Landscape Character Area (LCA) 3 – Athgoe and Saggart Hills which is a medium to highly sensitive landscape character.
- Policy NCBH14 Objective 4 requires a landscape/visual impact assessment to accompany planning applications for proposals within or adjacent to sensitive landscapes.
- The planning officer described it was necessary to assess the retention of the principal dwelling as a replacement and an extension of an existing dwelling, as both types of development had taken place and fall to be assessed under different policies in the County Development Plan.
- As the new detached building next to the replacement dwelling was laid out as a separate residential unit with two habitable rooms at first floor level the officer considered his would be best described and assessed as a two-storey, two-bedroom dwelling.

- A discrepancy in the application documents and drawings was highlighted in terms of the amount of demolition and an increase in the total amount of floorspace resulting from the building works arising from the development.
- It was stated in the report that notwithstanding these discrepancies the following floorspace requirements would be used for comparison in assessing the application.
- A house with a gross floor area of 285 square metres previously existed and that 122 square metres (43%) of that house has been demolished.
- A first-floor extension of 127.8 square metres and rear ground floor extension 109.1 square metres had been constructed and there was a net gain of 115 square metres (40%) of the original floor area of the house.
- A new detached habitable building of 116.9 square metres had also been constructed and 4 square metres of additional was now proposed linking the two buildings.
- A total of 520.9 square metres of new and proposed building represents a net increase of 235.7 square metres or 82% increase in the amount of floorspace.
- The report referred to Table 3.20 of the Development Plan and confirmed the minimum house size for a four or more-bedroom house shall be 100 square metres. It was noted the dwelling was in excess of the minimum space standards.
- The planning officer identified that policy H16 for the Management of Single Dwellings in Rural Areas applied to the proposal and highlighted that the purpose of the policy was to restrict the spread of urban generated dwellings in the 'HA-DM'.
- It was further explained that new and replacement dwellings may be considered in the 'HA-DM' area in exceptional circumstances.
- When assessed against the criteria of policy H19 Objective 1 it accepted that the first two criteria were met as two of the applicants were native to the area and could demonstrate a genuine need for housing in that particular area based on a need to care for the long-term occupant of the original house, the applicant's father.

- It was not accepted that the third criterion was met due to insufficient evidence that the retention and extension of the replacement dwelling would relate directly to the area's amenity potential or to its use for agriculture, mountain or hill farming.
- It was also considered in respect of criterion four that the development would prejudice the environmental capacity of the area, and would not be in keeping with the character of the mountain area.
- The mass and scale of the extension to the replacement dwelling was considered to diminish the vernacular form of the original dwelling in the 'HA-DM'.
- The excavation and flattening of a portion of the site, re-contouring of the land in the backdrop and use of a retaining wall around the rear and the failure to meet the recommended green space factor score for sites were all contributing factors in reaching this conclusion.
- Furthermore, the comments of the Environmental Health Officer were noted in relation to the waste water treatment system and the planning officer observed that it could not be stated with confidence that the development had not prejudiced the environmental capacity of the site.
- When assessed against the criteria in policy H21 Objective 1 the planning officer highlighted no evidence of major structural defects were submitted and this would usually be expected in an application for a replacement dwelling. It was noted that the applicant had proceeded without the benefit of planning permission.
- It was further noted that the original dwelling would generally be considered to have been of a vernacular form which it is preferable to retain under the zoning objective, unless there was a demonstrable genuine need for replacement or refurbishment.
- It was again highlighted that the landholding on which the replacement dwelling is located has been the subject of excavation works to the rear of the dwelling to facilitate a much larger building and that a retaining wall has been built to support the intervention.

- As a genuine need for a replacement or refurbishment of the pre-existing dwelling had not been established and the footprint of the new building was much larger and it was concluded the development did not conform with policy H21 Objective 1.
- The planning officer considered policy H23 also applied to the new and extended part of the development and highlighted that in rural and high amenity areas, new residential development including houses and extension should be designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.
- In respect of policy H23 Objective 1 the Planning Authority concluded that not all the criteria had been met for similar reasons to those highlighted in the report in respect of policies H19 Objective 1 and H21 Objective 1.
- In concluding the requirements of policy H23 Objective I had not been met the planning officer regarded the scale and design of the development to be contrary to the guidance in Section 12.6.9 of the Development Plan. However, no reference was included in the reason for refusal.
- In addition, to the policy reasons described in the preceding paragraphs the Planning Authority also highlighted the Environmental Health Department's concerns that the EPA's Code of Practice for Domestic Wastewater Treatment Systems could not be met and the application should be refused on this basis.
- It was accepted that the separate building used as ancillary accommodation for the care of an elderly relative subject to proposed construction of a link met the requirements of policy H15 and section 12.6.8 of the Development Plan.
- The use would be subject to a condition that the family flat could not be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.
- In summing up the planning officer concluded that the development would create a detrimental precedent for similar development in the Dublin Mountains in the future and should, therefore, be refused.

3.2.2 Other Technical Reports

- Water Services - No objection subject to the submission of a drawing in plan and cross-sectional view to show additional SuDS being incorporated into the development; the developer ensuring there is complete separation of the foul and surface water drainage and all works complying with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works.
- Environmental Health Officers' Department – Not acceptable as further information is required to confirm the appointment of a suitably qualified engineer, registered contractor and/or by an appropriately trained and qualified assessor to ensure the percolation meets strict environmental and building standards. No evidence was supplied with the site characterisation form submitted with the planning application to confirm the persons carrying out the assessments are suitably qualified.
- Roads Department – No objection as the access being retained is onto a private lane and the entrance gate is recessed from the lane. The visibility splay for the exit of the site at 74 metres with a setback of 2.4 metres in greater that the requirements of DMURS for a road with a speed limit of 50 kilometres per hour.
- Planning & Projects, Public Realm, Climate Action Department – No comment

3.3. **Prescribed Bodies**

- None

3.4. **Third Party Observations**

- None

4.0 Planning History

Application site

4.1. SD22B/0354 – Permission refused on 12 June 2023 for a two-storey extension and single storey side extension to existing dwelling accommodating additional bedrooms and living accommodation and granny flat for the following reasons:

- The proposed extension, by reason of its overall design including the proposed height, scale and massing is considered to contravene the site 'HA-DM' zoning

objective ‘To protect and enhance the outstanding natural character of the Dublin Mountains Area’ and fails to comply with the requirement of Policy H23 Objective 1 of the South Dublin County Development Plan 2022 – 2028.

- Furthermore, the proposed extension, in particular the proposed alterations to the roof profiles would not comply with Section 12.6.9 ‘Rural Housing’ of the Development Plan which required ‘The shape and form of residential development in rural and high amenity areas, including roof structures, should be compact and simple with external building finishes that reflect the local character of the area including vernacular buildings and traditional building materials.’ Accordingly, it is considered that the development as currently designed, and with the deficiencies in information provided, would, therefore, be contrary to the proper planning and sustainable development of the area.
- The proposed development was also contrary to policy GI4 ‘Sustainable Drainage Systems’ of the Development Plan, the applicant has not proposed any Sustainable Drainage Systems (SuDS) and given the significant increase of floor area, at an elevated and sensitively located site to permit development without due consideration of appropriate SuDS would be contrary to the proper planning and sustainable development of the area.

4.2. S9513 – an enforcement case is opened for the construction of a dwelling without benefit of planning permission.

5.0 Policy Context

5.1. Development Plan

- The South Dublin County Development Plan 2022-2028 (the Development Plan) is the relevant plan for the area and the site is located within Zoning Objective ‘HA-DM’ which is zoned to protect and enhance the outstanding natural character of the Dublin Mountains Area.
- The Development Plan interactive map indicates the following layers applicable to the appeal site:

  • Birds Hazards – Casement

• Conical Surface – Casement

- The site is located within the Dublin Mountains Major Core Green Infrastructure (GI) Area, the Rural Fringe Primary GI corridor and in close proximity to the Camac River Primary GI Corridor as described in Figure 4.4 of the GI Strategy Map of the Development Plan.
- The site is also 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.
- Policy GI5: Climate Resilience Objective 4 requires all qualifying development comprising two or more residential units and any development with a floor area in excess of 500 square metres to implement the Green Space Factor (GSF). It is further stated that compliance will be demonstrated through the submission of a Green Space Factor (GSF) Worksheet as set out in Section 12.4.2.
- Policy H15: Family Flats Objective 1 states that favourable consideration will be given to a family flat development where the Council is satisfied that there is a valid need for semi-independent accommodation for an immediate family member.
- Policy H16: Management of Single Dwellings in Rural Areas Housing restricts the spread of urban generated dwellings in the Dublin Mountain 'HA-DM' amongst other places to focus such housing into existing settlements in line with the Settlement Hierarchy.
- Policy H17: Rural Housing Policy and Local Need Criteria provides 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 5/2008 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.
- Policy H19: Rural Housing in the 'HA-DM' Dublin Mountains Zone states that 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. To satisfy the exception the following criteria have to be met:

  - the applicant is a native of the area; and 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.

- Policy H21: Replacement Dwellings in Rural and High Amenity Areas Objective 1: sates favourable consideration will be given in the 'HA-DM' applications where the Planning Authority is satisfied that all of the following are met:
  - There is a genuine need for replacement or refurbishment of the structure; and
  - The roof, internal walls and external walls of the structure on site are substantially intact; and
  - The structure on site is a habitable dwelling and its use as a habitable dwelling has not been abandoned (for a period that exceeds 5 years); and
  - The structure on site is of limited value in terms of built heritage, character and visual amenity; and
  - The replacement dwelling would largely occupy the same footprint, scale and location of the dwelling to be replaced, save in exceptional circumstances where the Planning Authority agrees a more favourable position in the context of the development management criteria outlined under Chapter 12: Implementation and Monitoring.
- Policy H23: Rural Housing and Extension Design Objective1 seeks to 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 and subject to meeting seven criteria.

- Section 12.6.8 Residential Consolidation outlines the details of the criteria to be met for family flat extensions.
- Section 12.6.9 Rural Housing outlines the details which support the policies and objectives of the Development Plan.
- It states that applications for residential development will be assessed, on a case-by-case basis, and must establish:
    - A genuine need to reside in proximity to their employment (such employment being related to the rural community); or
    - That the applicant has close family ties with the rural community.
- It also provides detail on rural housing design and wastewater treatment.

5.2. **Relevant National Policy Objectives and Regional Guidelines**

- Revised National Planning Framework (NPF)

  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;

- Sustainable Rural Housing Guidelines for Planning Authorities 2005

  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

  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.'

  It further states '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).'

5.3. **Natural Heritage Designations**

- The site is approximately 6 kilometres north west of the Glenasmole Valley Special Area of Conservation (SAC: 001209).

6.0 EIA Screening

6.1. 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

7.1. Grounds of Appeal

- It is set out for context in the grounds of appeal that one of three appellants is elderly and was the former occupant of the dwelling that is replaced. He has lived here all his life on a what is now a 25.34-hectare landholding that was handed down to him through two previous generations of the same family.
- Folio and folio maps were supplied with the application as proof of ownership. The land is currently leased to a local beef farmer for agricultural purposes.
- His son, daughter in law and six grandchildren now reside in the new dwelling. He now resides in a separate accommodation adjacent to the replacement dwelling.
- It is also stated that three daughters and other extended family member live in the Lugg. It is asserted that the appellants are native to the area and have a genuine need to live in the area.

Reason for Refusal 1

- In respect of the first reason for refusal the appellant highlights a discrepancy between what policy H16 states in respect of restricting *'the spread of urban generated dwellings'* and the reason for refusal which refers to the proposal presenting '*unrestricted residential development contrary to the restriction contained in policy H16'.*
- The appellants refer to the description of what urban generated housing is and quotes from Section 6.9.1 of the Development Plan '*Urban generated housing arises*

where the applicant has no indigenous links with the rural area, currently lives and works in the urban area and wishes to live in the rural area.'

- The appellants argue that the Planning Authority cannot import phrases into the policy and did not take proper account of what the policy requires. They reaffirm the development is not urban generated housing for the reasons set out in the planning statement submitted with the application and therefore aligns with policy H16.
- The appellants further highlight that the Planning Authority did not consider policy H17 and argue that a consequence of this omission the proposal must be rural housing which is for persons who are *"an intrinsic part of the rural community"* or *"working full-time or part-time in rural areas"*.
- A pre-existing dwelling had been on the site for more than 40 years and its replacement should not be considered an urban generated dwelling particularly where the appellants are native to the area and in need of housing on ancestral lands.
- The appellants suggest in respect of the criteria for new and replacement dwellings in policy H19: Objective 1 that the Planning Authority assessed the proposal to have met two of the criteria and the decision does not capture this. For completeness the appellants set out in the grounds of appeal how each of the criterion of this policy is met.
- In respect of the first criterion, one appellant has lived here all his life. He is a director of a local business and oversees the leasing of the land to a local farmer. His son is also native to the area and his daughter in law and grandchildren are returned to the area because of a genuine social need. The son is also a director of a local business. The appellants highlight that the Planning Authority accepted this criterion was met.
- In respect of the second criterion, all three appellants are involved in Luggwoods Events Limited and that seasonal events are run from the landholding. Previous histories of planning permission are cited for the operations of this events company local to the site.
- It is argued this business attracts visitors to the area and contributes to the local economy. A local needs criteria assessment is also submitted to confirm the

genuine need to live at this location. Again, the appellants highlight that the Planning Authority accepted this criterion was met.

- In respect of the third criterion the appellants dispute the Planning Authority's assertion that a dwelling is not required for a seasonal events business.
- They restate a dwelling existed at the site before the business was developed on part of the landholding. Three directors of the business live within one-kilometre of the site and it is their local knowledge and experience that has made the business a success.
- The appellants highlight that paragraph 3.23 of the sustainable rural housing guidelines does not distinguish between full-time and part-time work and whilst the business is seasonal the criterion can still be met. The users of the facility get enjoyment from the events contributing the amenity of the area.
- One of the appellants is also registered contractor with Coillte and is qualified to undertake works in Luggwoods and other forests managed by Coillte.
- Leasing the land to a local beef farmer for agricultural purposes still links the need for a dwelling to agriculture. The land is only leased because the appellant who owns the landholding is elderly and no longer fit to farm the land himself. His son keeps a small number of animals for the operation of the seasonal events business but does not have time to run a farm as he operates two businesses.
- The appellant argues the Planning Authority dd not ask for additional clarification on the farming operations during the application process and the criterion only requires the applicant to have a connection to agriculture. It does not set a benchmark for the extent of the connection.
- In respect of the fourth criterion, the new dwelling is located on the same flat site as the previous dwelling. The appellants argue the excavation works are mainly at the rear and were necessary to facilitate level access to the courtyard at the rear and the garden above the 1.45 metres retaining wall. The cut and fill operations also deal with surface water run-off from the mountain. Only the minimum amount of engineering work was carried out.
- The appellant highlights the Planning Authority did not state the proposal is contrary either of the two objectives of policy H12 and requests that the Commission takes

into account the hardstanding and retaining wall cannot be seen from Lugg Lane. The character of the area is not substantially changed when compared to what previously existed.

- Whilst a minimum green space factor of 0.7 was not achieved at the application stage the appellant highlights the Council is required to work with developers to achieve the required score. A landscape architect has reviewed the previous calculations and a green space factor of approximately 0.79 is now achieved.
- The planning statement submitted with the application sought to explain how the proposal met the requirements of Section 12.6.9 of the Development Plan were met. This is augmented with new additional supporting evidence in an architectural statement.
- The appellant asserts the Planning Authority took to narrow a view on what size the new dwelling could be and includes a comparative analysis of the former structure to explain how the requirements of the criterion are met.
- This report concludes that the new dwelling is of a higher architectural standard sufficient to comply with the guidance for rural house deign at Section 12.6.9 of the Development Plan.
- The appellant argues the replacement dwelling, related ancillary accommodation and associated cut and fill operations to create the private gardens to the rear does not harm the character of the Dublin Mountains.
- The new dwelling is sited on the footprint of a dwelling which had no architectural merit. It is nestled into the landscape and the proposed landscaping will further mitigate the impact.
- In respect of the first reason for refusal insofar as it relates to the replacement of the existing dwelling the appellant accepts they were foolish to proceed without first securing planning permission.
- It is outlined in the grounds of appeal that one of the appellants who is a ground works contractor with a general knowledge of construction was blindsided to the need to seek professional advice. A structural engineers report cannot be produced retrospectively.

- As the dwelling was old and not built to modern building control standards the appellant considered there to be a genuine need to replace the dwelling.
- The appellant highlights that a record exists of the former dwelling from an earlier planning application which demonstrates the roof, internal layout and external walls of the former dwelling were intact. The building was also occupied at this time by one of the appellants.
- The new dwelling and associated ancillary buildings have a floorspace of approximately 520 square metres. The appellant argues the new dwelling is on a similar footprint.
- It is only larger in scale because this is the minimum floorspace requirement for a nine-person household and the exceptional accommodation need of the appellants justify this.

Reason for Refusal 2

- The site falls within Landscape Character Area 3 - Athgoe and Saggart Hills a medium to highly sensitive landscape. The appellant argues the development will have a minimal impact on the visual setting of the surrounding landscape.
- A photographic survey is submitted with the grounds of appeal in support of this argument. This survey argues the views are restricted by existing landscape or other features.
- The appellants also consider when assessing the impact weight should be given to the fact that this is not an entirely new feature in the landscape.
- The proposed landscaping will mitigate the impact of the development overtime and when it is matured the proposed development will not adversely impact on the landscape or cause an unacceptable loss of visual amenity.
- A landscape and visual assessment is submitted with the application and the appellant quotes from the report that concludes as the proposed landscaping matures the visual impact will reduce resulting in low to moderate long-term visual impact, which is acceptable within a high amenity rural setting.

- The appellant highlights sections of the planning and architectural statements that address how the buildings have been designed and sited to minimise impact on the landscape to demonstrate how the first and third criteria of policy H23 are met.
- It is also argued there are no criteria for the maximum size of a dwelling in the rural housing design guidance and table 3.2 only specifies minimum floor space requirements.
- The accommodation was designed for 9 persons but this` has increased again to 11 with the arrival of a great grandchild and the mother of one of the appellants on medical grounds.
- As previously detailed earlier in the grounds of appeal the dwelling is large because it needs to accommodate a large family. The scale and mass of the dwelling is broken into blocks to reduce the overall visual impact.
- The appellant considers the second criterion to now be met following the submission of an updated GSF calculation. The method for dealing with surface water by SuDS is amended and dealt with in the grounds of appeal against the third reason for refusal.
- The appellants highlight there is no site ecological impact identified by the Planning Authority which need to be addressed in the grounds of appeal.
- The 1.45 metre retaining wall was necessary to facilitate access to the private gardens. It is behind the dwelling it can only be seen from within the site and does not have a wider impact on the wider landscape character of the area.
- The proposed landscaping will further mitigate the impact of the wall and the Planning Authority do not cite any other policy objections. For these reasons the appellants assert the requirements of the fifth criterion are met.
- The appellants state in respect of the sixth criteria that is now proposed to replace the existing septic tank. Based on their submission they state this would comply with the EPA code of practice for Domestic Wastewater Treatment Systems. The substance of this being dealt with in the ground of appeal for the third reason for refusal.

- Criterion four and seven do not apply because this is not a roadside site and the development does not create of exacerbate a ribbon of development.
- The appellants further highlight the Planning Authority does not object to adjacent ancillary accommodation on the basis of size and that all the criteria of policy H15 are met. This building is not referenced as having a visual amenity impact or impact on the character of the surrounding area.

Reason for Refusal 3

- The appellant acknowledges the concerns of the Environmental Health Department and submits new information in support of the grounds of appeal dealing with this refusal reason.
- The grounds of appeal explain that a person holding a Fetac Level 6 on-site wastewater qualification and professional indemnity insurance visits the site in July 2026 and examines recently excavated trial holes.
- A site characterisation report is prepared that recommends a new wastewater treatment unit and polishing filter is installed in replacement of the existing septic tank and percolation area. It also specifies the amounts of sand and gravel to be laid underground.
- The installation will be supervised and signed-off by a suitably qualified person and it is confirmed the storm and foul drainage will be on two separate systems.
- The appellant argues that no public health risks arise from the installation of a new wastewater treatment unit and polishing filter.

Other agreed matters

- The appellant highlights that the Planning Authority raised no concerns in respect of the home-based offices and the relocated vehicular entrance.
- The appellant also notes the scale of development proposed does not give rise to the need for appropriate assessment or environmental impact assessment.

Ministerial Guidelines

- The appellants set out how they consider the development meets the requirements of the draft National Planning Statement (NPS) on Sustainable Rural and Gaeltacht

Housing June 2026. The arguments set out above in the grounds of appeal are restated.

7.2. **Planning Authority Response**

- The Planning Authority confirm their decision and advise the 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 the other documentation on file, including the submission received to appeal, the reports of the local authority, and having inspected the site, and having regards to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered as follows:

- The principle of development
- The question of replacement
- The justification for a new rural dwelling
- The need for a family flat
- The impact on visual amenity on the Dublin Mountains
- Wastewater Treatment
- Other Matters

<u>The principle of development</u>

8.2. The site is subject to Zoning Objective 'HA-DM' in the Development Plan which has the purpose to protect and enhance the outstanding natural character of the Dublin Mountains Area.

8.3. Residential use is open for consideration in Zoning Objective 'HA-DM' subject to the development proposed for retention being in accordance with Council policy for residential development in rural areas.

8.4. Residential use is not permitted above the 350-metre contour in the 'HA-DM'. The application site is located approximately 100 metres below this contour.

8.5. It highlights at Section 6.9 of the Development Plan in line with NPO 19 of the National Planning Framework that the entire rural area of South Dublin is under strong urban influence.

8.6. It states the Development Plan seeks to strike a balance between facilitating housing for people who have a genuine need to live in rural areas and will contribute to the rural community and economy while protecting them from urban generated housing and housing that would adversely impact on landscape character, environmental quality and visual amenity.

8.7. I note in seeking to restrict the spread of urban generated dwellings and to protect and enhance the outstanding natural character of the Dublin Mountains Area that new and replacement dwellings will only be considered in exceptional circumstances.

8.8. This site is also located within the Athgoe and Saggart Hills Landscape Character Area, Dublin Mountains Major Core GI Area, the Rural Fringe Primary GI Corridor and in close proximity to the Camac River Primary GI Corridor.

8.9. The application is principally for the retention and extension of a replacement dwelling. Careful consideration is required of the exceptional circumstance presented in the grounds of appeal to justify the retention of this development.

8.10. As the site is in a sensitive landscape full and proper consideration of the landscape character, environmental quality and visual amenity is also required.

The question of replacement

8.11. This part of the proposal is described in the application form as *'an extended replacement 7No. bed dormer/single storey dwelling with dormer family flat and 2No. home base offices, set out in blocks, pursuant to the substantial demolition without planning permission of pre-existing dormer/single storey dwelling.'*

8.12. The Planning Authority highlight at the application stage that in defining the proposal the applicant does not describe what demolition works were required to facilitate the replacement and/or highlight which part of the building fabric was incorporated into the extension. They suggest this would have needed to be clarified if a grant of planning permission is considered.

8.13. I do however note the description in the application does confirm that the demolition works were 'substantial' and this is consistent with the submitted plan 24098-CEA-PL-00-A-00101-P07 (retention ground floor plan) which shows part of the northeastern gable wall and front elevation and some internal load bearing structural and non-load bearing stud walls annotated as 'original existing walls.' The balance of the structure including the roof is demolished.

8.14. I note the same drawing also shows the load bearing structural wall including a chimney breast and flue in the living room replaced in a different location with a masonry wall. This is also the case for the original stud wall in bedroom. I do not consider these walls to be 'original existing walls' as annotated on the plan if they are now in a different location.

8.15. It would appear that the appellant concedes at the application stage that most of the original building was demolished and I am satisfied that the description is sufficiently clear in respect of the demolition being substantial when read alongside the above-referenced plan.

8.16. This is at odds with the updated schedule of accommodation appended to the grounds of appeal however and contradicts the earlier submission. It suggests that only 33.9 square metres of the original dwelling (which was 163.1 square metres) is demolished.

8.17. No updated plans are submitted consistent with the clarification offered in the schedule and this provides little by way of assistance in determining what the true nature of demolition works where.

8.18. I observed at the site visit that the ground adjacent to the northeastern corner of the dwelling had been excavated to facilitate hard landscaping works and noted new blockwork in the substructure below the skim line of the plaster.

8.19. Having checked the finished floor level for the dwelling which is the subject of this appeal and compared it with the level on the submitted plans for a previously refused application (SD22B/0354) I note the finished floor is now 360mm higher.

8.20. I also note in the planning statement provided with the application that there was no damp-proof course in the floors and consider it would be highly unusual to retain internal walls if a new floor slab was poured to bring the building up to current building control standard.

8.21. I acknowledge photographs provided by the appellant in evidence as part of the grounds of appeal show a soft strip in progress but this does not mean that part of the original structure was retained and extended.

8.22. No evidence is provided in support of the appeal that would allow me to conclude that parts of the existing structure were used in the construction of a new dwelling.

8.23. In examination of the submitted plans and taking into account my observations from the site visit I consider it is highly probable that the original dwelling was demolished in full, the foundations grubbed up and the building replaced with a new larger dwelling in its entirety.

8.24. The additional loading of new accommodation in the roof void would have required a structural assessment of the walls and foundations. No reports were submitted with the application or in the grounds of appeal that would address whether the retained external structural walls were capable of accommodating the new first floor accommodation.

8.25. Policy H21 does not make provision for retrospective applications for replacement dwellings and I note one of the criteria to be met in Objective 1 is that *'the roof, internal walls and external walls of the structure on site are substantially intact*.'

8.26. I do not consider that the objective requirement of this criterion can be met retrospectively. I could not distinguish on site any part of the original roof or external wall that was substantially intact.

8.27. I consider the Planning Authority's objection to this proposal as a replacement dwelling to be well founded. Given the extent of the demolition works it is highly unlikely that there was a dwelling to replace at the time the application was made.

8.28. For this reason, the remaining assessment is confined to whether a new dwelling can be considered in the 'HA-DM' where residential development will only be permitted in exceptional circumstances.

<u>The justification for a new rural dwelling</u>

8.29. The appellant sets out in the grounds of appeal the exceptional circumstance why a dwelling should be permitted at this location and a rationale for how the all the criteria of policy H19 are met.

8.30. In examination of the four criteria, I note that the Planning Authority were in agreement the applicant is a native of the area and can demonstrate a genuine need for housing in that particular area.

8.31. In considering the proposal for the subject dwelling afresh and having read and considered the grounds of appeal I agree that there is sufficient evidence that the appellant has lived here all his life and is native to the area. I consider the first criterion of the policy to be met.

8.32. His son is also native and in moving his extended family back to live and work in established businesses at the Lugg and provide care to his elderly father this demonstrates a genuine need for a dwelling. I consider the second criterion of the policy to be met.

8.33. In respect of the third criterion, I note the appellant who lived in the former dwelling no longer farms and whilst the land remains in agricultural use it is let to another farmer who lives in the local area. No animals are kept on the land by the appellants other than a small number for a non-farming related business.

8.34. Managing a lease is not agriculture, mountain or hill farming and there is no compelling evidence in the grounds of appeal to consider that a house is required for this use. I consider the Planning Authority's concern in respect of the second part of criterion three to be well founded.

8.35. That said in terms of the 'or' part of the objective and the question of whether the development is related directly to the area's amenity potential I consider there to be compelling evidence that a dwelling is required.

8.36. The appellants highlight that paragraph 3.23 of the Sustainable Rural Housing Guidelines does not distinguish between full-time and part-time work and whilst the business is seasonal the criterion can still be met.

8.37. The appellants also assert that the Planning Authority should have had regard to the requirements of policy H17 insofar as it relates to considering 'rural housing for persons who are "an intrinsic part of the rural community".'

8.38. I note the guideline at paragraph 3.23 Sustainable Rural Housing Guidelines is more explicit and qualifies that part-time occupations can be considered where the predominant occupation is farming/natural resource related.

8.39. This proposal is not linked to a full-time farming occupation for the reasons outlined above. However, the guideline then goes on to state that *'such circumstances could also encompass persons whose work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominantly takes place within rural areas.'*

8.40. I consider this part of the guideline to be relevant to the third criterion because development that is related directly to the area's amenity is allowed in the 'HA-DM' zoning.

8.41. In this respect one of the appellants is a registered contractor with Coillte and is qualified to undertake works forests managed by Coillte. This type of work predominantly takes place and is intrinsically linked to the rural area.

8.42. The related part-time work carried out by him and his extended family is also in the rural area and I observed at the site visit equipment and buildings used in association with that business adjacent to the subject site.

8.43. The appellant argues that the administration of the business was carried out from the former dwelling at this location and that the three directors living within one-kilometre has contributed to its success.

8.44. I also understand that whilst the business is seasonal the maintenance and repair of the buildings and making roads and pathways good for visitors in preparation for the events is required and that this is made easier by having access to a dwelling in close proximity to the business.

8.45. I also acknowledge based on the photographic evidence that a dwelling did exist here previously and that one appellant who lived in that living is a director of the events company. I have no reason to dispute the appellants assertion that the former dwelling was used for the administration of the business.

8.46. I further note that providing access to employment opportunity be it seasonal or part time and providing access for visitors to events in the Dublin Mountains does contribute to the *'area's amenity potential'* more widely.

8.47. The third criterion of the policy is met for reasons outlined in the preceding paragraphs and I do not consider it necessary to examine the proposal against the requirements of policy H17 as Objective 2 of the policy relates to the 'RU' zoning only.

8.48. In respect of the first part criterion 4 the Planning Authority is concerned that as there no satisfactory proposal for how wastewater is dealt with this has an adverse impact the environmental capacity of the area.

8.49. The appellant asserts in the grounds of appeal that any adverse can be dealt with by the installation of a new wastewater treatment plant and polishing filter. I will return to this issue later in the report as this is also raised as a separate ground of appeal.

8.50. A related issue is raised by the Planning Authority in terms of the environmental capacity of the site to absorb the development as the landscape mitigation proposed does achieve the minimum green space factor for the designation in the GI Strategy.

8.51. The appellant argues that the proposed landscaping and will add to biodiversity; embrace a nature-based SuDs solution; address climate resilience and seek to protect and enhance the landscape character.

8.52. A landscape architect has prepared an updated landscape proposal and a green space factor of approximately 0.79 is now achieved in respect of the requirements of policy GI5 Objective 4.

8.53. I have read the submission and have no reason to dispute the amended calculations and if implemented the proposed landscaping will mitigate any impact the development is perceived to have had on the environment and will add to climate resilience in accordance with the Development Plan.

8.54. In respect of the second part of criterion 4 the appellant asserts that the new dwelling has a minimal impact on the mountain area because the new dwelling is sited on the footprint of a dwelling which had no architectural merit. It is nestled into the landscape and the proposed landscaping will further mitigate the impact.

8.55. A landscape and visual assessment and architectural statement are provided in support of this argument and having visited the site and read both submissions I agree with the appellants that the impact of the development is minimal from the lower slopes of the Mountain and surrounding countryside.

8.56. I acknowledge there was previously a building on this site and at the same elevation in the landscape. In terms of mitigating factors, the mountain behind is a backdrop and the dwelling is groped with other buildings in the foreground which use the same access and shared lane.

8.57. The Planning Authority place emphasis on the cut and fill operations and construction of an associated retaining wall and describe these works as causing significant harm to the character of the area.

8.58. I do not agree with the characterisation that this a significant impact as the works were carried out at the back of the dwelling and only obvious when standing on the site. The wall is less than 1.5 metres in height and used only to retain a grassed area behind.

8.59. I acknowledge policy H12 Objective 2 requires developers to avoid the use of intrusive engineered solutions, such as cut and filled platforms, embankments or retaining walls on sites with steep or varying topography.

8.60. In this respect and from my observations at the site visit no cut and fill operations were required to facilitate the construction of the dwelling. The land behind has had minimal engineering works to create private amenity spaces for the use of the residents of the dwelling.

8.61. The photomontages provided as part of the landscape and visual assessment objectively address the impact of the development. I agree that the cut and fill operations are not visually intrusive and the new dwelling has limited impact on the character of the area for the reasons set out in the preceding paragraphs.

8.62. Criterion 4 is capable of being met for reasons described above but before concluding whether the proposal is in accordance with policy H19 I must first address the questions of the impact the proposal has on the visual amenity of the Dublin Mountains in respect of policy H23 Objective 1 and in considerations of the suitability of the domestic effluent treatment plant proposed for retention.

<u>The family flat</u>

8.63. The appellants acknowledge in the grounds of appeal that the Planning Authority accepted that the family flat used as ancillary accommodation for the care of an elderly relative subject to proposed construction of a link met the requirements of policy H15 Objective 1 and section 12.6.8 of the Development Plan.

8.64. I agree with both parties that policy H15 Objective 1 does allow favourable consideration to be given to a family flat as an extension to a dwelling. There is also adequate grounds in the supporting planning statement which includes additional

supporting medical evidence to confirm a need for semi-independent accommodation for an immediate family and more than one other extended family member.

8.65. In respect of the criteria at Section12.6.8 I agree the applicant has demonstrated:

- there is a genuine need for the family flat for the reason detailed in the preceding paragraph;
- the family flat at 122 square metres is less than 50% of the floor area of the new dwelling which has a floor area of 375 square metres;
- subject to the construction of the proposed link the family flat shall be directly accessible from the front door of the main dwelling via an internal access door; and
- an existing external door is retained on the side elevation to provide access to private open space to the rear.

8.66. Should the Commission be minded to grant planning permission for this proposal it is recommended that conditions are attached requiring the proposed link to be constructed, the family flat not sold, conveyed or leased separately from the main residence, and when the need for the family flat no longer exists it should be returned to the main dwelling.

<u>The impact on the visual amenity of the Dublin Mountains</u>

8.67. The Planning Authority consider the proposal cumulatively has impact on the visual amenity of the 'HA-DM' zoning based on an extension to a replacement dwelling. As outlined earlier in the report I consider this proposal is for the retention of a new dwellings and a family flat as an extension to that dwelling.

8.68. Having reviewed the supporting documents submitted with the grounds of appeal and for the same reasons set out at paragraphs 8.50. to 8.61. I consider the dwelling and family to be designed and sited to minimise impact on the landscape including views on places of natural beauty.

8.69. It is also sited to minimise impact on the site's natural contours and natural drainage features and to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls.

8.70. The retention of the dwelling and family flat does not create or exacerbate ribbon or a haphazard form of development and the other criteria that require the reinstatement of traditional roadside and field boundaries does not apply in this circumstance.

8.71. The other two criteria are in respect whether the proposal:

- will cause a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and
- is in compliance with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent less than 10) 2021.

are considered in the next section of this report.

Wastewater Treatment

8.72. The description of development does not explicitly use the word 'retention' and the application form at Q.20 describes the proposed system of wastewater management/ treatment as new. That said I am satisfied based on my observations at the site visit, review of the submitted plans and examination of the grounds of appeal in the site characterisation reports that the proposal is for the retention of the installation of a septic tank and percolation area.

8.73. I note the appellant submits in support of the grounds of appeal a new site characterisation report that confirms:

'existing dwelling seeking retention, served by a septic tank and a percolation area'. No installation evidence/pictures of percolation area that could allow me to certify compliance with EPA CoP 2021.'

8.74. This report also confirms that the effluent generated from the development will be treated by a Batchpur treatment system installed in a Corcoran pre-cast tank. It concludes that by installing this system:

'*the treated effluent from the Batchpur treatment system will be discharged to a sand polishing filter where is permeates through he polishing filter for tertiary polishing before discharge to the in-situ subsoil. Any remaining residual contaminants will be depleted by attenuation before reaching the groundwater. It is stated that this treatment and disposal method will work satisfactorily at the above site and conform to all EPA guidelines. Pleas note that the recommendation outlined in this site report are subject to*

the installation of the specified Corcoran pre-cast tank only. Any deviation from the specified system renders the recommendation of this report null and void.'

8.75. I further note the site characterisation form submitted with the planning application specifies a Corcoran Tank which is the same size as the one required to install the Batchpur system in the new Site Characterisation Report submitted with the grounds of appeal.

8.76. That said there is no evidence that the existing tank was inspected by the engineer instructed to prepare the site characterisation report for the grounds of appeal. The treatment performance results certificate for the tank in that submission has a different date (January 2017) than the one submitted with the application for the same specification of tank (October 2016).

8.77. It is not clear from the grounds of appeal whether a new tank is being installed or the Batchpur system is retrofitted. If the latter is the case, then the consultant should have explained this in his report particularly as any deviation from the specified system renders this recommendation null and void.

8.78. The site characterisation report submitted in support of the grounds of appeal also confirms that the existing percolation area cannot to be certified and the polishing filter is in replacement of this.

8.79. These are new engineering works and the new system for treating effluent was not part of the application for retention permission.

8.80. I further note the submission is based on a design for a Population Equivalent (PE) of for a seven-bedroom house. There are eight bedrooms when the family flat is taken into account and the application does not include a separate system for this building.

8.81. If considered now this would be a material change to the retention proposal as it was not included in the description of development and not part of the original site notice. It has not been subject to consultation with the Environmental Health Department of the Council.

8.82. I further note that it is a requirement of the development management standards for domestic effluent treatment plants at 12.6.9 that such details should be included with applications for new house where there would be an increase in demand on the treatment capacity of any existing wastewater treatment system.

8.83. This dwelling is much larger than the dwelling that was previously on the site. The appellants do not set out in the grounds of appeal why this new proposal was not provided with the application and should be considered now.

8.84. Consequently, as the solution offered by the appellants sits outside the ambit of the retention application and this appeal I can only consider whether the installed system for treating effluent complies with the requirements of the Irish Environmental Protection Agency (EPA) Code of Practice.

8.85. In this respect I note the household size specified in the site characterisation form submitted with the planning application is 14. It is further indicated that there are 6 double bedrooms and 2 single bedrooms. No PE calculation is specified at Section 6 of the form.

8.86. The Environmental Health Department advise that a Population Equivalent (PE) between 10 and 50 applies. In this circumstance it is highlight the EPA Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent ≤10), 2021 as specified in Section 12.6.9 in the Development Plan does not apply and that the EPA mandates adherence to the code of practice for Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (PE 10 - 500).

8.87. In respect of the submission provided with the application it not made explicitly clear that the wastewater treatment system proposed for retention is designed to the above referenced EPA specification and is sized to meet this PE.

8.88. For context however I note the submitted site characterisation form identifies the appeal site as located in an area with an aquifer where the bedrock vulnerability is extreme. A groundwater protection response of R21 for the site is noted.

8.89. A 2.5% slope was identified and I note from my observations that it was gently sloping consistent with the advice set out in the form.

8.90. The trial hole depth referenced is 2.0 metres. No bedrock was recorded at the excavated depth. It was noted however that the water table was not encountered and the soil conditions found in the trial hole were in two layers of uncompacted granular subsoil to a depth of 1.0 metre. Loose shale was then encountered at a depth of 1.0 metre beyond which there was a third layer of subsoil to structureless single grain subsoil.

8.91. Percolation test holes were dug and pre-soaked. A T value / subsurface percolation value of 18 was recorded. A standard septic tank was recommended.

8.92. No further assessment is undertaken of the site characterisation form and the suitability of the installed septic tank and percolation area as the appellant accepts that a treatment system needs to be added, the existing percolation cannot be certified and a new polishing filter needs installed.

8.93. I further note the Environmental Health Department highlight that septic tanks need to be tested and certified in accordance with S.R. 66:2015 and EN 12566 Part 1. No evidence is submitted with the grounds of appeal that a suitably qualified engineer or registered contractor was engaged in the installation of the percolation area nor was its installation supervised by an appropriately trained and qualified assessor to ensure it meets strict environmental and building standards described above.

8.94. I consider the concerns of the Planning Authority to be well founded in respect of the proposed retention of the precast concrete septic tank and percolation area.

8.95. This part of the proposal is not in accordance with the development standards in Section 12.6.9 of the Development Plan that requires applications for new dwellings that cause an increase in demand on the treatment capacity of any existing wastewater treatment system to be installed in accordance with the appropriate environmental standards.

8.96. Consequently, the dwelling and dormer family flat proposed for retention are contrary to the requirements of bullet points 2 and 6 of policy H23 Objective 1 albeit this is based on a septic tank and percolation area that is larger than the EPA Code of Practice for Domestic Wastewater Treatment Systems (Population Equivalent less than 10) specified in the policy.

8.97. It is also not in accordance with the requirements of policy H19 Objective 1 in that the exceptional circumstances criteria are not met and the development prejudices the environmental capacity of the area contrary to the proper planning and sustainable development of the area.

Other matters

8.98. The appellants set out that all the other matters related to the appeal are satisfied. In concluding all the criteria of policy H19 Objective 1 are not me I do not consider that all

other parts of the development set out in the description of development could be granted permission as a split decision.

9.0 AA Screening

9.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.

The subject site is located approximately 6 kilometres north west of the Glenasmole Valley Special Area of Conservation (SAC: 001209).

The proposal comprises the demolition of a pre-existing chalet style dwelling; the retention of a seven-bedroom chalet style replacement dwelling and separate family flat and home base office; relocated vehicular access; 1.45-metre-high internal retaining wall; precast concrete septic tank and percolation area. Permission is also sought for proposed dormer link between the dwelling and family flat/offices; entrance; front (north) boundary treatment; landscaping works; SuDS; adjustment to existing percolation area to be within three-metres of eastern boundary and ancillary site works/services.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The proposal is to retain a dwelling in replacement for another with ancillary accommodation to meet the needs of a family member. The scale of development is small.
- The distance to the identified European sites and the lack of connection.
- Taking into account the screening determination by 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 either alone or in combination with other plans or projects.

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 **Water Framework Directive**

10.1. The subject site is approximately 700 metres west of the River Camac.

The proposal comprises the demolition of a pre-existing chalet style dwelling; the retention of a seven-bedroom chalet style replacement dwelling and separate family flat and home base office; relocated vehicular access; 1.45-metre-high internal retaining wall; precast concrete septic tank and percolation area. Permission is also sought for proposed dormer link between the dwelling and family flat/offices; entrance; front (north) boundary treatment; landscaping works; SuDS; adjustment to existing percolation area to be within three-metres of eastern boundary and ancillary site works/services.

No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies 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/or groundwater water bodies wither qualitatively or quantitatively.

The reason for this conclusion is as follows:

- The proposal is to retain a dwelling in replacement for another with ancillary accommodation to meet the needs of a family member. The scale of development is small.
- The applicant indicated SuDS drainage is proposed. If properly designed and installed SuDS can be an acceptable form of mitigation.

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

11.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

12.0 Reasons and Considerations

12.1. Having regard to the nature and scale of development proposed which results in a material increase in occupancy on the subject lands which occur in an area of extreme groundwater vulnerability, it has not been demonstrated that the development to be retained, nor the amended proposals submitted to the Commission at appeal stage, would comply with the appropriate environmental standards and achieve adequate levels of wastewater treatment or give rise to a risk to public health. In this regard, the proposed development would be contrary to the requirements of policy H23 Objective 1 and Section 12.6.9 of the South Dublin County Development Plan in relation to such development.

As the proposal prejudices environmental capacity and as it is not demonstrated that all the exceptional circumstances criteria of policy H19 Objective 1 are met it is 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.

Conor Hughes
Planning Inspector

28th October 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501688-SD-26
Proposed Development Summary	The proposal comprises the demolition of a pre-existing chalet style dwelling; the retention of a seven-bedroom chalet style replacement dwelling and separate family flat and home base office; relocated vehicular access; 1.45-metre-high internal retaining wall; precast concrete septic tank and percolation area. Permission is also sought for proposed dormer link between the dwelling and family flat/offices; entrance; front (north) boundary treatment; landscaping works; SuDS; adjustment to existing percolation area to be within three-metres of eastern boundary and ancillary site works/services
Development Address	Lugg Lane, The Lugg, Saggart, County Dublin D24FV44
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.	
☒ 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.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	
☒ Yes, the proposed development is of a Class but is sub-threshold.	Schedule 5 Part 2 10 Infrastructure Projects (b)(i) construction of more than 500 dwelling units. Schedule 5 Part 2 1 Agriculture, Silviculture and Aquaculture (a) Projects for the restructuring of rural land holdings, where the area to be restructured would be greater than 100 hectares.
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 ☐	
No ☒	

Inspector: _____ **Date: 28th Ocotber 2026**

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501688-SD-26
Proposed Development Summary	The proposal comprises the demolition of a pre-existing chalet style dwelling; the retention of a seven-bedroom chalet style replacement dwelling and separate family flat and home base office; relocated vehicular access; 1.45-metre-high internal retaining wall; precast concrete septic tank and percolation area. Permission is also sought for proposed dormer link between the dwelling and family flat/offices; entrance; front (north) boundary treatment; landscaping works; SuDS; adjustment to existing percolation area to be within three-metres of eastern boundary and ancillary site works/services
Development Address	Lugg Lane, The Lugg, Saggart, County Dublin D24FV44
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).	The development is a replacement for a single dwelling with ancillary accommodation that comes forward as a standalone project. The land adjacent to and at the rear has been modified to extend the curtilage of the property. The 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.
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	The development is located in the open countryside in a sensitive landscape setting. Whilst the new buildings are larger than the single dwelling that was in situ before the development took place, they are still relatively small in scale and clustered with other buildings in the foreground. Visual impact and landscape assessments are provided to understand the impact on the character of the sensitive rural landscape setting without the need for further assessment.

reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
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 modest nature of the proposed development, its location on the footprint of a previous dwelling, the likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	
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.	**No**
There is a real likelihood of significant effects on the environment.	**No**

Inspector: _____ **Date: 28th October 2026**