



An
Bord
Pleanála

Inspector's Report

ABP-320466-24

Development	Construction of 51 houses, a temporary wastewater treatment plant, pumping station and all associated site development works.
Location	Grange, Killumney, Ovens, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	235485
Applicant	O'Brien and O'Flynn
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	O'Brien and O'Flynn
Observer	Michael Duffy
Date of Site Inspection	11 th October 2024
Inspector	John Duffy

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 4.5 kms south-west of Ballincollig town centre and approximately 2.5 kms to the south-west of Junction 2 on the N22 which is known as Ballincollig West. The L2216 runs from the N22 and it serves the townlands of Lisheens, Grange and Killumney. There is significant ribbon development and a number of housing estates along this local road. The site is located on the northern side of the L2216 at Grange Terrace, with an existing agricultural entrance providing access to the lands. The lands, with an area of c 5.17 ha, comprises two agricultural fields, rectangular in configuration, bisected by a hedgerow boundary running north to south across the lands. The lands are generally flat in topography.
- 1.2. The southern site boundary is defined by an existing stone and sod native hedgerow. The western site boundary comprises a variety of treatments including 1.8 m high concrete post and panel fences, concrete block walls, some trees and hedgerow. The northern boundary is largely defined by 1.8 m high concrete post and wire fencing and hedging. There are a number of mature trees and hedges located along the eastern site boundary.
- 1.3. Adjoining lands to the north are occupied by the car park associated with the Dell Technologies site, and playing fields. Lands adjoining to the east accommodate the Beverly housing estate, while adjoining lands to the west at Grange generally accommodate detached housing on individual plots.
- 1.4. The River Bride flows approximately 350 metres to the north-west of the appeal lands.

2.0 Proposed Development

- 2.1. The planning application was lodged with the planning authority on the 21st July 2023. Unsolicited Further Information was submitted on 2nd August 2023. Further plans and details were provided on the 13th June 2024 following a Further Information request dated 14th September 2023. The proposal relates to the provision of a temporary Wastewater Treatment Plant (WWTP) and pumping station and the construction of a housing scheme comprising a total of 51 housing units consisting of:

- 30 no. 4 bed houses: 9 detached units (Type H1) and 21 semi-detached units (Type H2).
- 12 no. 3 bed terraced houses (Type H3).
- 9 no. 2 bed terraced houses (Type H4).
- Material finishes to the houses comprises painted render on front elevation and roughcast finish on other elevations, and zinc roofs above entrances.
- A central area of public open space (c 3,120 sqm) with the majority of houses arranged around it.
- 2 no. car parking spaces per unit and 10 no. visitor car parking spaces.
- Access is proposed from the adjoining local road to the south.
- Provision of drainage infrastructure.
- Landscaping of the site.

2.2. The planning application was accompanied by the following reports/studies;

- Planning Report including a Statement of Housing Mix.
- Architectural Design Statement including Housing Quality Assessment.
- Landscaping Design Report.
- Engineering Services Report and Technical Information.
- Construction Environmental Management Plan.
- Traffic and Transportation Assessment.
- Arboricultural Tree Survey.
- Public lighting details.
- Appropriate Assessment Screening Report.
- Part V costs / methodology.
- Wayleave details to manhole.

Unsolicited Further Information was submitted on 2nd August 2023 and provided the following:

- Site plan showing stormwater infrastructure.
- Drainage Impact Assessment.
- Foul and Storm water longitudinal sections.
- Vehicle tracking.
- Sightline drawing.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision made to refuse permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 14th September 2023 as follows:

- Item 1 – Submit correspondence from Irish Water in relation to the Pre Connection Enquiry to the public foul network. Correspondence to set out (a) the proposed flows and discharge limits from the Interim effluent treatment system and (b) the proposed hydraulic loading limits from the interim effluent treatment system to the public foul network.
- Item 2 – Provide a detailed schedule of the proposed operation and maintenance for the interim effluent treatment system.
- Item 3 – Provide details of public network connection and a drawing detailing full route from the interim effluent treatment system.
- Item 4 – Provide details of a proposed decommissioning and removal plan for the interim effluent treatment system, including a plan for site reinstatement within 6 months of permanent cessation of the system.
- Item 5 – Provide details of an acceptable bond arrangement to allow for operation, maintenance and decommissioning / removal of the interim effluent treatment system.
- Item 6 – Provide revised proposals to design out the tunnel like access road which links units 5 to 14 and 5 to 15, which is considered to facilitate an anti-social area.

- Item 7 – A site layout plan showing all boundary treatment, bin storage serving terraced units, and elevations of same.
- Item 8 – Provide revised proposals for play provision.
- Item 9 – Clarify the exact works proposed to be undertaken at the front road boundary as there are discrepancies in section 5.1.7 of the Planning Report and the sightline drawing provided as unsolicited further information.
- Item 10 – Submit a contiguous elevation of the proposed development as viewed from the public road inclusive of boundary treatment.
- Item 11 – Revise layout omitting the Right Hand Turning Lane on the public road.
- Item 12 – Install a raised pedestrian crossing point east of unit no. 9.
- Item 13 – Provide a Water Framework Directive Compliance Assessment (WFDCa) to demonstrate no adverse effect on water quality and ecological objectives downstream of the discharge, arising from either the increase in mass of pollutants of the development, but also from the increased additional hydraulic loading on the UE treatment plant. This assessment shall have regard to current collected load, and consented development under construction. This assessment shall be based on UK Planning Inspectorate Guidance Note 18: The Water Framework Directive (Planning Inspectorate, 2017).
- Item 14 – Provide details of a monitoring and reporting programme to verify plant performance.
- Item 15 – Provide details of how the plant would be managed in long term / perpetuity, to mitigate the risk of the overall Killumney agglomeration scheme not progressing in the short to medium term. (Consideration to provisions of the MUD Act, with transfer of the wastewater treatment plant to a management company, with each house having a share in the management company might form the basis of this proposal).
- Item 16 – Submit a Drainage Impact Assessment, consolidating the surface water management plan with the landscape plan to provide a net biodiversity gain through the provision of NBSs.
- Item 17 – The proposal involves removal of trees that may support roosting bats, and a Preliminary Roost Assessment is to be provided which is prepared

in accordance with best practice guidelines, by an ecologist with expertise in bat surveying.

- Item 18 – Should it be determined that any tree proposed for removal has potential to support roosting bats or evidence of bats discovered, additional bat surveys will be required. Likely impacts of the development on bats should be fully assessed and mitigation measures proposed where necessary. Mitigation proposals to be fully integrated into the design of the proposal.
- Item 19 – Where proposed works involve damage to or interference with a bat roost site, a derogation license from the NPWS will be required in order for works to proceed. Indicate whether any such license has been obtained or is in progress.
- Item 20 – Provide a revised Landscape Plan (with input from an ecologist) with a greater emphasis on native tree and shrub species, and to be prepared having regard to the All-Ireland Pollinator Plan. Include more specific detail as to the measures to be implemented to protect existing trees to be retained.
- Item 21 – Lighting shall be designed to M4 Class on the public road and P3 Class within the development to be dimmed to one class lower between 12 midnight and 6 am.
- Item 22 – Show the lighting on the public road along the curtilage of the site on a separate Grid within the public lighting report. Lights outside the perimeter of the development to be fed from a separate micro-pillar to the public lighting within the development.
- Item 23 – Design for conflict zone and install a public light opposite the T junction entrance to the development and show this within the design report along with lux levels plot for the entrance.
- Item 24 – Review locations of the lighting columns within the design.
- Item 25 – Review the lantern specified within the design, having regard to the CCC Public Lighting and Product Spec Manual 2023.
- Item 26 – S/P Ratio shall no longer be incorporated within designs (Drawing No, E1 Proposed Outdoor Lighting Layout refers).
- Item 27 – The spill of light within the design shall be revised. Lighting is to be evenly distributed within the development.

- Item 28 – Engage the services of a suitably qualified archaeologist licensed under the National Monuments Acts to carry out an Archaeological Impact Assessment (AIA).
- Item 29 – A flood risk assessment is required in accordance with WM11-15. Prepare and submit a Flood Risk Screening Assessment, given the site lies in flood zone C.
- Item 30 – The archaeologist shall carry out relevant documentary research and inspect the site for archaeology. A geophysical survey shall be carried out, the results of which shall be submitted to the County Archaeologist for review.

3.1.2. Further information submitted on the 13th June 2024.

- Item 1 – Correspondence from UÉ provided which sets out proposed flows and discharges, and details of proposed hydraulic loading limits. The correspondence envisages that where planning permission is granted, a completed connection application should be submitted.
- Item 2 – In terms of the maintenance of the proposed system, a contract agreement will be entered into with the system provider to provide full maintenance of the system. The plant will be fitted with a Programmable Logic Controller to be used to monitor both high level alarms, flow rates at both the proposed plant and at the UE Killumney treatment plant. The plant will be monitored on a 24 hour basis. In terms of compliance with loading parameters grab samples will be taken at prescribed intervals to ensure pre-treated discharged water is within limits. Continuous sampling of agreed parameters and flow rates will be provided and uploaded to a SCADA system for review.
- Item 3 – Drawing is provided showing the extent of the rising main and associated infrastructure from the interim treatment plant to the existing UÉ discharge manhole on the public road.
- Item 4 – Site Plan provided showing proposed interim treatment plant decommissioned.
- Item 5 – A bond agreement for the operation, maintenance and decommissioning / removal of the interim treatment is submitted.

- Item 6 – Updated site layout plan eliminates areas which would potentially be used for anti-social behaviour and promotes passive surveillance (Drawing No. 2307-FI-100 refers).
- Item 7 – All boundary treatments, including bin storage are given on the boundaries plan (Drawing No. P546-104).
- Item 8 – The play area is revised as requested (See Drawing Nos. P546-101 Rev A Landscape Plan, and revised detail drawing No. P546-103 Rev. A).
- Item 9 – Upon re-examination of the recently installed public roadside footpath, it is now proposed to retain the roadside hedgerow to the front site boundary in order to minimise biodiversity loss. A portion of the hedgerow will require removal to facilitate the new site entrance and to facilitate sightlines. (See boundaries plan and Landscape Plan).
- Item 10 – Contiguous front elevation drawing provided as requested (Drawing No. 2307-FI-101 refers).
- Item 11 – As requested, the right hand turning lane on the public road has been omitted.
- Item 12 – A raised pedestrian crossing point to the east of unit 9 is provided on the updated site plan.
- Item 13 – A WFDCA Report is provided which, inter alia, describes the impact of the proposed development on the attributes of the receiving environment, due to the operation of the interim WWTP. The discharges will amount to less than 0.04% of the 95th percentile flow in the Lee and therefore, any effects on water quality will be imperceptible.
- Item 14 – As part of the operation of the plant, a third party specialist laboratory will undertake periodic sampling of the post-treated effluent from the interim treatment plant. Furthermore, high level monitors will be fitted and linked to the SCADA system and monitored remotely.
- Item 15 – Details of the long-term management of the plant are provided. The treatment plant shall be in the control of the applicant for the duration of the construction phases. As part of the sales contract for the houses, a management company will be established, with a requirement for all owners to be party to same. Upon completion of the houses, the contract for the

management of the treatment plant will be transferred to the management company.

- Item 16 – A Drainage Impact Assessment (DIA) is provided and promotes the provisions of Nature Based Solutions (NBSs). Key features include permeable paving, the introduction of individual soakpits to each dwelling, rainwater gardens, infiltration basins and a swale. Recharge to the groundwater aquifer is achieved.
- Item 17 – A Preliminary Roost Assessment is provided and finds that following a walkover survey of the lands in January 2024, due to the presence of gaps within linear features at the site and those in its immediate environs, the proposed site is considered to be of low to moderate suitability for foraging and community bats.
- Item 18 – Where bats are recorded roosting in trees proposed for felling a range of mitigation measures are proposed. Details are included in the Preliminary Bat Survey provided.
- Item 19 – No bat roosts were recorded in the site although three trees / shrubs are suitable for individual roosting bats and require removal to facilitate sightlines. Should any of the trees be identified as a bat roost, a derogation license application shall then be made to the NPWS.
- Item 20 – Landscape Plan is revised to provide for a greater emphasis on native trees and shrubs species, with input from the Team Ecologist. (Revised Landscape Plan Drawing No. P546-101 Rev A).
- Item 21 – In terms of public lighting, the residential estate has been designed to Class P3 and will dim to one class lower during the hours of 12 midnight to 6am (calculations provided).
- Item 22 – The main road is designed to Class M4 using a separate grid as requested and includes the conflict zone to the same standard. The lighting will accord with the CCC Lighting Manual and Product Specification 2023.
- Item 23 – The main junction has been identified as a conflict zone and designed to M4 standard as required by CCC Lighting Manual and Product Specification 2023.
- Item 24 – Lighting columns have been reviewed as requested and this matter is addressed in the submitted Further Information.

- Item 25 – The lantern utilised is Cree Energy Uno as per the CCC Specification document.
- Item 26 – All references to S/P ratio are removed, as requested.
- Item 27 – The light fitting selection report demonstrates that the design is completed in line with the principles of GN01-21 (Guidance Note for Obtrusive Light). All fittings will have a tilt angle of 0 degrees.
- Item 28 – An AIA has been prepared and provided. There are eight archaeological sites within approximately 500m of the site. No potential archaeological or built heritage features are noted on the historic mapping or aerial images. A geophysical survey was undertaken at the subject site and the associated report is contained as Appendix 3 of the AIA. Nothing that that would indicate definitive archaeological remains was noted, although several anomalies of potential were identified, particularly in the eastern part of the surveyed area.
- Item 29 – A flood risk screening objective is provided and finds that the site is in a Flood Zone C area.
- Item 30 – The submitted AIA includes further detail of the testing programme, with results outlined in section 3 of the report. It is recommended that a preservation by record / full archaeological excavation be undertaken in the area surrounding potential archaeological features revealed within Trench 10.

3.2. Decision

By Order dated 10th July 2024 the Planning Authority issued a decision to refuse permission for the following reasons:

1. It is considered that the proposed development would be premature by reference to the existing deficiencies in the Kilmoney/Ovens Wastewater Treatment Plant, the risk to the Water Framework Directive water quality objectives from increasing the hydraulic loading on an already overloaded treatment plant, the risk of aggravating odour nuisance from an overloaded treatment plan and the risk of stranded costs in respect of the Developer Provided Infrastructure (DPI) should the Small Towns and Villages Growth Programme not progress in a timely manner. It is therefore considered that the

proposed development would be contrary to Objective WM 11-9 (Wastewater Disposal) of the County Development Plan 2022 which requires that development in all settlements connect to public wastewater treatment facilities subject to sufficient capacity being available which does not interfere with Council's ability to meet the requirements of the Water Framework Directive. In the absence of improved wastewater treatment capacity, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of an upgrade to the Killumney/Ovens Public wastewater treatment plant above its existing capacity, chronic impacts to freshwater ecology and to European designated sites, downstream of the discharge point, from increasing the hydraulic loading on an already overloaded Wastewater Treatment Plant, cannot be ruled out due to the risk to Water Framework Directives objectives. The proposed development would therefore be considered contrary to proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports (Area Planning Officer)

The first report of the Area Planning Officer generally reflects the issues raised in the Further Information request.

Further Information Recommended.

The second report of the Area Planning Officer assess the responses received in connection with the Items raised in the Further Information request. Where the responses relate to Items raised by other Departments (e.g. Environment, Ecology Section, Archaeology) the assessment of the response provided by those Departments are included in the Area Planning Officer's report. It is noted that the majority of responses made by the applicant to the Further Information items are either deemed to be acceptable or are 'noted' in the report. Based on the assessment of the Further Information provided, as set out in the Environment Report and the Ecology Report, a recommendation to refuse permission is made.

3.3.2. Planning Report (Senior Executive Planner)

This report, written after the first report prepared by the Area Planning Officer, notes that the key issue relates to the proposed temporary treatment plant. It goes on to state that in exceptional circumstances, permission has been granted for temporary on-site WWTPs where it was demonstrated that Irish Water capacity would be realised through upgrades to the system. There is, however, no timeframe for the delivery of upgraded wastewater infrastructure in the Killumney /Ovens area, and the application does not, therefore, provide a timeline for the duration of the 'interim' nature of the development.

3.3.3. Planning Report (Senior Planner)

This report was written after the second report prepared by the Area Planning Officer. Reference is made to the Water Framework Directive Compliance Assessment provided, which, according to Environment Section, assumes the discharge is direct to the waterbody and not to the Killumney WWTP as proposed, and therefore the applicant has failed to provide any comfort to the local authority that adding additional loading to an already overloaded WWTP would not have an adverse impact.

Concerns are expressed about the ambiguity of Uisce Éireann's (UÉ's) Confirmation Of Feasibility (COF) letter. UÉ has provided no reasonable timeframe on when upgrade works will happen, with the preferred option not determined as yet. UÉ's report notes that in times of heavy rainfall, the WWTP is hydraulically overloaded, with flows running through the WWTP and into the river. Despite these critical infrastructural problems, the report notes that UÉ has concluded it has no issue with the proposal. The report notes that Inland Fisheries Ireland (IFI) has requested a refusal of permission. It is considered that Objective WM 11-9 is not met as there is no sufficient capacity and the proposals would have negative WFD implications. There are also serious concerns regarding the assimilative capacity of the receiving waterbody. The report therefore recommends that permission is refused.

3.3.4. Other Technical Reports

Public Lighting Section (first report): Further Information recommended.

Public Lighting Section (second report): No objection subject to conditions.

Estates Section (first report): No issue with proposed internal layout.

Recommendations made in relation to play equipment. Reservations relating to turning area outside unit no. 9.

Estates Section (second report): Issues addressed. No objection subject to conditions.

Housing Officer: No objection to the Part V proposal.

Archaeologist (first report): Further Information recommended: AIA to be provided and geophysical testing to be undertaken.

Archaeologist (second report): No objection subject to conditions.

Area Engineer (first report): Further Information recommended in relation to transportation matters.

Area Engineer (second report): Following receipt of Further Information, permission is recommended.

Water Services / Wastewater Operations: Further Information recommended in relation to matters concerning wastewater and wastewater infrastructure, including, inter alia, details of the operation and maintenance of the interim treatment system, provision of a decommissioning and removal plan, and submission of pre-connection agreement from Irish Water. No formal comment was received from Water Services following submission of Further Information.

Ecology Section (first report): Further Information recommended including a Preliminary Roost Assessment, a revised Landscape Plan with greater emphasis on native tree and shrub species, and details concerning tree protection measures. The report raises concerns that there is potential for the proposal to negatively impact Cork Harbour SPA and Great Island Channel SAC given that there is a potential hydrological connection to these sites. The report notes that the screening assessment cannot be concluded until the Further Information recommended by the Environment Department is provided.

Ecology Section (second report): Recommended that permission is refused on the basis that (having regard to the report from Environment Department) chronic impacts to freshwater ecology and to European Sites cannot be ruled out due to the

risk to WFD objectives from increasing the hydraulic load on an already overloaded WWTP.

3.4. Prescribed Bodies

The following bodies were notified of the proposed development by the Planning Authority: Failte Ireland, and made submissions:

Inland Fisheries Ireland (IFI) – First submission: Several items of information not provided to enable assessment of the potential implication of the proposal in terms of water quality on the River Bride, as follows:

- Location identification and licence number of the Irish Water treatment plant to receive effluent from the development.
- Details of current organic and hydraulic loadings at this plant and respective organic and hydraulic capacities of the plant.
- Records of plant performance relative to licence requirements in the past year.
- Appendix 4 Irish Water correspondence referred to in the Engineering Services Report submitted with the application.
- A capacity of the River Bride in relation to current and proposed additional loading from the WWTP in the context of existing current legislative requirements.

IFI – Second submission (following receipt of Further Information):

- Irish Water has stated that to accommodate a wastewater connection, upgrade works are required to Killumney WWTP. Until upgrade is completed, IFI considers the application is premature and requests refusal of permission.

Uisce Éireann (UÉ):

- Applicant should be requested to engage with Irish Water by submitting a PCE to assess feasibility of connection to the public water infrastructure (The outcome of the PCE to be provided as a response to Further Information request).

A copy of the Confirmation of Feasibility (COF) from UÉ is provided with the Further Information response. In terms of wastewater connection, it states the following:

To accommodate the proposed connection, upgrade works are required to the Killumney WWTP.

Killumney is nominated by Cork County Council for inclusion as part of Uisce Éireann's Small Towns & Villages Growth Programme (STVGP) as priority settlement.

The Small Towns & Villages Growth Programme supports growth and development in towns and villages throughout the country, while ensuring that wastewater continues to be treated to an appropriate standard.

Uisce Éireann commenced the Stage 1 Strategic Assessment in 2023 and now moving to the Stage 2 Preliminary Business Case assessment to determine the preferred option. An indicative date for project completion will then be provided once the Stage 2 assessment for a project is complete.

Further updates on the budget and timelines for delivery will be provided in due course.

We note your proposal to provide a temporary on-site package plant to pretreat wastewater before discharging to the public sewer, until the public WWTP is upgraded. Uisce Éireann have no objection to this proposal, subject to planning approval and the following:

- 1. The proposed development will discharge pre-treated foul effluent only to the public sewer. The pre-treated flows from the development will be pre-treated to an effluent quality which, at a minimum, does not exceed the following limits:*
 - 25 mg/l BOD*
 - 35 mg/l SS*
 - 15 mg/l Ammonia*
 - 5 mg/l Ortho-P*
- 2. Uisce Éireann reserves the right to request monitoring/sampling records to prove compliance with above limits.*

3. *Hydraulic load shall include for foul flows only as described above. There should be no surface water flow discharges connected to the UE network.*
4. *In times of heavy rainfall events Killumney WWTP is hydraulically overloaded. In times of heavy rainfall events, all flows run through the WWTP and into the river. On this basis and in the interim solution, you are advised to provide for reserve storage within your proposed site. There should be a link between the pump station within your proposed development and the sump at the Killumney WWTP through a SCADA system (or similar) which could temporarily limit pump flows during a high rainfall event within the combined sewer.*
5. *A wastewater network extension will be required from the rising main discharge manhole to a connection point to be identified by Uisce Eireann at the time of connection application.*

An Taisce:

- It does not appear that information is provided regarding potential impacts on the River Bride, notably the river's assimilative capacity.
- The application requires assessment against the Water Framework Directive (WFD) to determine if the proposal would cause a deterioration of water bodies.

3.5. Third Party Observations

Four third-party observations were received by the planning authority on the application and these are on file. The concerns raised relate to traffic, access, roads and footpaths, boundary treatments, sightlines, the proposed wastewater treatment plant and pump station and potential issues / concerns arising, compliance with Water Framework Directive (WFD), that Appropriate Assessment (AA) requirements not carried out, requirements for submission of green infrastructure plan and flood risk assessment not met, unauthorised development in the form of a surface water drain on the site, removal of trees, visibility of site notices, design and layout issues, the need for a mobility management plan / public transport assessment, and an

assessment of community services including education and health facilities in the area.

4.0 Planning History

RZLT Appeal:

ABP Ref. 316354-23 / Planning Authority Ref. DRZLT-473700886 refers to an October 2023 decision to confirm the local authority's decision to include the subject lands on the RZLT map.

Other applications on subject lands:

Planning Authority Ref. 07/11996 refers to a September 2008 decision to grant permission for 90 no. dwellinghouses comprising 76 no. detached dwellings and 14 no. terraced dwellings, creche, vehicular entrance and right hand turning lane, underground foul water pumping station, 4 no. underground storm water attenuation tanks, play area, landscaping and associated site development works and services. Condition 3 of the permission reduced the number of houses to 45.

Extensions of Duration of this permission were permitted under the following applications:

Planning Authority Ref. 22/4345 refers to an April 2022 decision to grant an Extension of Duration, with the permission to expire on 31st December 2023.

Planning Authority Ref. 18/5900 refers to a November 2018 decision to grant Extension of Duration.

Planning Authority Ref. 12/6410 refers to a December 2012 decision to grant Extension of Duration.

Planning Authority Ref. No. 10/4155 for 116 houses and associated development works on the subject lands, while the Planner's report indicates this development was refused permission, it is apparent from an online planning search on the Cork County Council website that the planning application was withdrawn on the 24th January 2011, and that no decision was taken by the planning authority.

Relevant application / appeal within the wider area

ABP Ref. 310250-21 / Planning Authority Ref. 235485 refers to an October 2021 decision to refuse permission for 72 dwellings, creche and associated works, which would modify part of the residential development previously permitted under ABP-302638-18, at a site at Ballygorman Lower, Killumney, Ovens, Co. Cork. Refusal reasons related to prematurity of development given the existing capacity deficiencies in the Killumney/Ovens wastewater treatment plant, that the proposed development would be prejudicial to public health in the absence of improved wastewater treatment capacity, and that the Board is unable to ascertain that the proposed development would not adversely affect the integrity of a European Site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Cork County Development Plan 2022 - 2028 is the current statutory plan for County Cork including the subject lands at Killumney / Ovens. **Volume 1** provides the 'Main Policy Material' and relevant chapters to this development include Chapter 2 – Core Strategy, Chapter 3 – Settlements and Placemaking, Chapter 4 – Housing (provides details on housing mix, density), Chapter 6 – Social and Community, Chapter 11 – Water Management and Chapter 12 – Transport and Mobility (provides details on car parking and bicycle parking etc). Chapter 14 covers Green Infrastructure and Recreation and Chapter 18 – Zoning and Land Use.

The Core Strategy in Chapter 2 is supported with Appendix B which provides 'Core Strategy Tables.' Killumney /Ovens is located within the 'County Metropolitan Cork Strategic Planning Area.' The following information for Killumney / Ovens is extracted from Appendix B.

2016 Census Population	2028 Target Population	New units required for Plan period
1,132	2,242	424

The population of Killumney / Ovens is given as 1,466 in the 2022 Census.

5.1.2. The appeal lands identified as KO-R-01 are zoned for Medium 'A' residential development.

Sections 4.8.10 and 4.8.11 in **Volume 1** of the Cork County Development Plan 2022-2028 states the following in relation to Medium Density 'A' lands:

'4.8.10 An increased minimum threshold is proposed for the Medium A Density category to 30 units/ha as per the Guidelines. The category allows for the provision of apartments within the unit typology mix but it is not a requirement. This category is generally applicable to suburban and greenfield sites in larger towns >5,000 population and those planned to grow >5,000 population over the lifetime of the Plan.'

'4.8.11 In smaller towns with a population < 5000, this revised Medium A category would generally be the highest density category applicable to edge of centre / inner suburban sites within such settlements, unless otherwise stated.'

5.1.3. **Volume 4** of the Plan covers South Cork, which includes Killumney / Ovens, one of four Key Villages in the Macroom Municipal District. Section 4.6 of Volume 4 specifically refers to Killumney / Ovens. Section 4.6.1 sets out the following Vision for Killumney / Ovens:

'The vision for Killumney / Ovens is to encourage the consolidation of the village within its rural setting, to protect and enhance the range of community facilities and commercial facilities within the village and to promote an appropriate scale of development in tandem with the provision of services.'

5.1.4. In terms of Infrastructure serving Killumney / Ovens, the following is relevant as set out in sections 4.6.11, 4.6.12 and 4.6.14 of **Volume 4** of the Plan:

'4.6.11 The WWTP in Killumney / Ovens does not have capacity to accommodate further growth in the villages and the upgrade is required. Extensions to the foul sewer network are also required. The potential for an upgrade to the WWTP for

Killumney Ovens is to be progressed through Irish Water's Small Towns and Villages Growth Programme which was approved for funding in July 2021.'

'4.6.12 The settlement is served by a public water supply from the Ballincollig / Inniscarra Scheme, part of the Harbour and City Water Supply Scheme. There are watermain network issues which need to be rectified in order to cater for future development and capacity of pumping stations also an issue to be rectified.'

'4.6.14 There are areas of Killumney / Ovens served by public footpaths and public lighting. However, additional footpaths and lighting together with the provision of traffic calming measures to enhance pedestrian safety are required. Similarly, maintenance and improvement works are required to the bridges within the village. In addition, the Killumney Road also needs to be upgraded including the provision of public lighting and footpaths.'

- 5.1.5. Development Boundary objectives set out in **Volume 4** for Killumney / Ovens are as follows:

KO-DB-01: Within the development boundary encourage the development of up to 424 additional dwelling units during the plan period.

KO-DB-02: Consider the preparation of a detailed urban design framework for the village to give additional guidance to future development.

KO-DB-03: New development should be sensitively designed and planned to provide for the protection of green infrastructure assets of the village and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity.

KO-DB-04: All development should contribute to improved, safe pedestrian and cyclist connectivity and should include proposals for the provision of improved pedestrian / cycle access routes, provision of new footpaths or improvement of existing footpaths and provision of facilities for cyclists as appropriate.

KO-DB-05: Proposals for development should include measures to provide for landscaping and noise mitigation between the settlement and the proposed N22.

5.1.6. **Objective HOU 4-7 of Volume 1** of the County Development Plan sets out the new density categories in the Plan and Table 4.1 sets out the new tiered density approach recommended to respond to the diverse settlement scales within the County's hierarchy. Objective HOU 4-7 sets out minimum and maximum net densities for Medium Density 'A' lands as 30 and 50 units per hectare respectively. The following comment made in respect of such lands, is relevant to the appeal site:

'This category would be the highest density category applicable to the smaller settlements (< 5,000 in population), and would generally apply to central sites within the core of such settlements, unless otherwise stated or where a higher density approach accords with the existing pattern of development.'

5.1.7. **Section 14.5.11** of Volume 1 of the County Development Plan notes the following in relation to public open space:

'Generally, at least 12% to 18% of a site for development excluding areas unsuitable for house construction should be allocated to the provision of public open space. However, the need to achieve higher qualitative standards in terms of design and layout is particularly important as it is this which helps to achieve a high quality residential environment which fulfils the expectations of the users. In exceptional circumstances where there is a high standard of private open space and where public open space is designed to a very high-quality standard a reduced minimum value of 10% may be applied.'

5.1.8 **Objective HOU 4-6** seeks to secure a mix of house types and sizes throughout the County to meet the needs of the likely future population across all age groups and requires a Statement of Housing mix to be provided with proposals.

5.1.9 Chapter 11 – Water Management

Objective WM 11-1: EU Water Framework Directive and the River Basin

Management Plan includes: a) Protect and improve the County's water resources and ensure that development permitted meets the requirements of the River Basin Management Plan and does not contravene the objectives of the EU Water Framework Directive.

c) Secure the objectives and facilitate the implementation of the associated Programme of Measures of the River Basin Management Plan 2018-2021 and any

successor plan for ground, surface, estuarine, coastal and transitional waters in the Plan area as part of the implementation of the EU Water Framework Directive.

g) Development may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation, the Water Framework Directive and the requirements of the Habitats Directive.

Objective WM 11-9: Wastewater Disposal

a) Require that development in all settlements connect to public wastewater treatment facilities subject to sufficient capacity being available which does not interfere with Council's ability to meet the requirements of the Water Framework Directive and the Habitats Directive. In settlements where no public wastewater system is either available or proposed, or where design, capacity or licensing issues have been identified in existing plants, new developments will be unable to proceed until adequate wastewater infrastructure is provided.

b) In assessing proposals for development, it is a requirement that adequate assimilative capacity in the receiving waterbody be retained so as to allow for the overall growth of the settlement.

c) Development proposals incorporating proposals for management of wastewater through use of Integrated Constructed Wetlands should be designed to comply with national guidelines.

d) Development in and around Wastewater Treatment Plants will not generally be permitted within 100m of a treatment works or 25m of a pumping station. This distance may be increased if significant environmental issues are likely to arise and will be judged on a site by site basis. The buffer area may be used to fulfil open space requirements.

5.1.10 Chapter 14 – Green Infrastructure and Recreation

GI 14-3: Green Infrastructure and Development

a) Require new development and redevelopment proposals, to contribute to the protection, management and enhancement of the existing green and blue infrastructure of the local area in terms of the design, layout and landscaping of development proposals.

b) Require all development to submit a green infrastructure statement outlining how the proposal contributes to green and blue infrastructure both within its environs as well as within the wider settlement or rural area. Larger developments (multiple residential developments including Part 8 applications, retail, industrial, mineral extraction, etc) will be expected to prepare a Landscape/Green (and Blue) Infrastructure Plan including a Landscape Design Rationale. This Plan should identify environmental assets and include proposals which protect, manage and develop green infrastructure resources in a sustainable manner.

c) Over the lifetime of the Plan the Council will prepare a guidance note/update on best practice in integrating green and blue infrastructure/biodiversity within development proposals.

5.2 National Policy

5.2.1 National Planning Framework (NPF): Chapter 4 of the NPF is entitled 'Making Stronger Urban Places' and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 11: Provides that 'In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.'
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a

range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Chapter 6 of the NPF is entitled 'People, Homes and Communities' and it sets out that place is intrinsic to achieving a good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to 'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages'.
- National Policy Objective 33: 'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.'
- National Policy Objective 35: 'Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.'

5.2.2 Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

The site is within a Metropolitan Village, and as per table 3.3, residential densities should not generally fall below 25 dph (see below).

Metropolitan Area – Village (<1500 population)

Metropolitan Villages are small in scale with limited infrastructure and services provision. These settlements are identified for incremental growth that takes account of the capacity of existing services and infrastructure (including public transport and water services infrastructure). Density should be tailored to reflect existing density and / or built form but should not generally fall below 25 dph.

SPPR 3 relates to car parking; Part (iii) states the following: *In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling*

SPPR 4 relates to cycle parking and notes that safe and secure storage facilities should be provided in a dedicated facility of permanent construction.

5.3 Ministerial Guidelines

5.3.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Design Manual for Urban Roads and Streets (2019).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.4. **Natural Heritage Designations**

The proposed development is not located within or immediately adjacent to any European site. The nearest Natura 2000 Sites are the Cork Harbour SPA and the Great Island Channel SAC, located approximately 14 km and 20 km respectively from the appeal lands.

5.5. **EIA Screening**

5.5.1 See Forms 1 and 2 below. This proposed development, is of a class of development included in Schedule 5 to the Planning and Development Regulations 2001 as amended. Class 10(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:

- (i) construction of more than 500 dwelling units,
- (iv) urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

5.5.2. The proposal comprises the construction of 51 no. residential units and an interim WWTP and pumping station on a 5.17 ha site. The site area is therefore well below the applicable threshold for urban development. The proposed development falls below the development threshold and mandatory EIA is therefore not required. The site is located within the settlement boundary of Ovens / Killumney. The nature of development within the vicinity of the site is primarily residential. The development will not have an adverse impact in environmental terms on surrounding land uses.

5.5.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a serviced site within the development boundary of Ovens / Killumney will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of natural heritage.

5.5.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. The proposed development would use the public water and drainage services of Uisce Éireann and Cork County Council. I note that the existing Wastewater Treatment Plant serving Ovens / Killumney is at capacity and the proposals for an onsite wastewater treatment system. This is addressed within Section 7 of this report.

5.5.5. Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within the development boundary of Ovens / Killumney, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended), the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development is not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision of Cork County Council to refuse permission for the proposed development. The grounds of appeal are summarised as follows:

- A temporary WWTP formed part of the proposal and was supported by a comprehensive Water Framework Directive Compliance Assessment (WFDCA) Report, which demonstrated that discharges from the proposed development (via the on-site treatment plant) will be in full compliance with the Surface Water Regulations and Water Framework Directive.
- UÉ also noted in its PCE that it is supportive of the temporary treatment solution until the planned upgrade of the sewer network in the area is implemented and are satisfied that the applicant would use the outfall of the existing municipal treatment plant to discharge to the river Bride.
- The Environmental Officer accepted there is capacity for additional loading to the river Bride from the proposed development if it was discharged directly to the river. However, the Environmental Officer's assessment was based on the incorrect assumption that wastewater from the development discharges via the existing treatment facility and adds additional load to the Killumney WWTP, however this is not the case.
- The final discharge to the river Bride bypasses the existing treated process in the Killumney WWTP and simply discharges at the gravity outfall manhole forward of the treatment process of the existing plant (Drawing No. 23135 – ETP Rev A refers, which is attached to the appeal).
- In the WFDCA Report, submitted as Further Information, the proposed development discharge was modelled on the basis of pre-treatment prior to discharge to sewer and is taken as the additional loading, post treatment at the UÉ Killumney works that will discharge to the river. The additional loading was confirmed to be acceptable in so far as a maximum of 3% of the available assimilative capacity is taken up by the discharge and the increases in downstream concentrations when assessed against the EQS all remain fully compliant (Tables 1 and 2 of the assessment made by OES Consulting Engineers refers – copy attached).
- Table 4.4.2 of the Cork County Development Plan 2022-2028 assumes that the entire population of Killumney is served by the treatment plant and no information is available to indicate any modifications or internal upgrades may have been undertaken from 2009 to 2024 to accommodate additional inflows.

UÉ's capacity register assumes all wastewater in Killumney is served by the existing WWTP, however there are over 400 dwellings served by Grange Manor WWTP which is privately owned.

- It is considered that the additional volumetric load on the plant is not significant and that given UÉ's confirmation of acceptance of the additional inflows, together with the acceptance of the findings of the WFDCA Report by the local authority, that the discharges from the proposed development can be made without the likelihood of significant effects on the receiving water environment while ensuring full compliance with the WFD requirements.
- The WFDCA Report is based on the reasonable assumption that UÉ has provided a letter of feasibility accepting the discharge, subject to its pretreatment by the applicant, and is satisfied that the Killumney WWTP would remain capable of meeting the conditions of its EPA Certificate of Authorisation.
- An additional 22.7 m cubed of domestic foul wastewater will be treated and discharged to the river. In flow terms this amounts to an additional 0.1% flow to the river during low flow – 95 percentile conditions, and an additional 0.013% during median flow conditions.
- In relation to Waste Assimilative Capacity (WAC) the Environmental Officer accepted that there is capacity for additional loading.

The following Appendices are included with the appeal:

Appendix 1 – Copy of decision made by Cork County Council.

Appendix 2 – OLS Consulting Engineers responses to comments from Environment Section.

Appendix 3 – Drawing No. 23135-ETP (Site Plan showing connection to existing outfall) and Cover Letter from OLS Consulting Engineers.

6.2. Planning Authority Response

The planning authority considers that all relevant issues have been covered in the technical reports provided and has no further comment to make.

6.3. Observation

Michael Duffy of 1 Clos Na hEaglaise, Kilfenora, Co. Clare has submitted an observation on the first party appeal. The grounds of the observation are summarised as follows:

The applicant's grounds for appeal:

- It is claimed that the WFDCA Report concludes that the proposal will fully comply with surface water regulations and the WFD. Previous correspondence from the IFI to the local authority requested that it undertake an assimilative capacity study of the River Bride, however such assessment was not carried out, nor was the assistance of the EPA sought in this regard.
- The WFDCA Report is an attempt to circumvent AA Screening and Stage 2 AA.
- The appellant ignores the refusal reasons provided by the planning authority as well as refusal reasons given under An Bord Pleanála Reference ABP-310250-21.
- The discharge of partially treated effluent will increase pollution in an already polluted environment, and the proposal will have chronic impacts on freshwater ecology and EU designated sites downstream of the discharge point.
- It is claimed that the Environmental Officer accepted the proposed discharge would not adversely impact the River Bride. A determination in this regard cannot be made without a full independent assessment of the assimilative capacity of the River Bride, which should have been carried out as part of a Stage 2 Appropriate Assessment.
- The concept that the proposed discharge will by-pass the treatment facility and discharge to the gravity outfall manhole is raised for the first time in the appeal. This is a material alteration to the application made and warrants a refusal to consider the appeal. This is a new proposal and is an abuse of process.

WFD Report

- Criticism of the WFD Report including that it fails to state that the latest listed WFD trends 2013-2018 are upwards for ammonia, nitrogen and ortho-phosphate.

- Only token monitoring is taking place.
- There is no reference for the contents of Table 1 in the Report.
- Section 3.3 proposed to discharge pre-treated effluent 'to the public foul line.' It is not UE's role to comment on alternative proposals or to be 'supportive in principle' in the provision of infrastructure it is tasked with providing.
- It is not UE's role to specify ELV parameters for a private WWTP.

Wastewater

- There is no proper assessment for Aer's for the Killumney WWTP on the EPA portal.
- There has been no assessment in this process of impacts on the river from unmonitored stormwater outflows from this plant and / or network.

Stormwater

- The proposed use of a stormwater sewer installed by the appellant, as part of claimed substantial works in a previous Extension of Duration application on the lands, is unauthorised development and a complaint in this regard has been made to the planning authority. The subject application cannot be considered until such time as the planning status of that sewer is regularised.

Appropriate Assessment

- Given the recognised connectivity between the subject site and downstream European Sites and the dysfunctional wastewater treatment plants discharging to this environment, it is difficult to see how cumulative or in-combination impacts will not have a significant impact on these sites.

Bat Assessment

- The bat assessment provided is inappropriate, with only a superficial walk-over survey undertaken. No surveys were carried out during the appropriate periods.
- A planning decision cannot be made until a derogation licence is in place, if required (Recent ECJ Case C-166/22 refers).

Other

- UÉ, IFI and An Taisce reports all submit that a deferral is appropriate.

- The appeal is concerned with maintaining value in the lands, which without the necessary infrastructure, has an agricultural value.
- The previous planning application (Reg. Ref. 22/6850) should be taken into consideration.
- The proposal, unlawfully revised in the appeal, to connect the proposed rising main to the UÉ outfall to the River Bride is not shown in the application. The redline boundary for the proposed development does not show the route of the rising main to this now proposed location. Drawing 23135-01 Rev B received on 21st July 2023 only shows the proposed rising main to the red line boundary for onward connection to the Irish Water sewer. A copy of a drawing is included in the planner's FI report, showing a rising main (hatched blue) travelling in a westerly direction to an existing UE manhole and into the UE WWTP.

The following Appendices are included with the observation:

- Appendix A: IFI correspondence to the local authority dated April 2023.
- Appendix B: Copies of previous planners reports from 2000-2001.

7.0 Assessment

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

- Principle of Development – Compliance with policy
- Wastewater
- Risk to water quality objectives
- Other Issues
- Appropriate Assessment

7.2. Principle of Development – Compliance with Policy

- 7.2.1. The appeal lands are zoned for Residential uses under Objective No. KO-R-01 of the Cork County Development Plan 2022-2028. The proposed development of housing, provision of a WWTP and pump station serving the proposed residential development on these lands is therefore acceptable in principle and would be in compliance with the Development Plan.
- 7.2.2. The proposed development primarily provides for a mix of detached, semi-detached and terraced houses on lands within the development boundary of Killumney / Ovens that are currently in agricultural use and are under grass. Adjoining lands to the east and west accommodate a low density estate of mainly detached houses and individual housing respectively, while the Manor estate further east of the proposed development consists of similar type housing to that proposed. I am satisfied that that the proposed development will integrate with the existing form and character of development that is established in the area. As already indicated, the subject lands where housing is proposed are zoned for residential development and the submitted proposal is in accordance with this.
- 7.2.3. In terms of housing supply, Objective KO-DB-01 under Section 4.6 Killumney / Ovens (Volume 4) of the Development Plan indicates that the scale of growth for the village is an additional 424 units during the plan period. Table 4.4.13 Killumney / Ovens Population and Housing Supply indicates that this 424 housing supply figure is to be delivered from Residential and Mixed-Use Zoning including Compact Growth Sites. The proposal to provide 51 units on part of the KO-R-01 lands constitutes approximately 12% of the overall 424 units envisaged for Killumney / Ovens. As such the proposal would comply with Table 4.4.13 of the Development Plan, and would be acceptable in this regard.

Future residential amenity

- 7.2.4. In terms of Table 5.1 of the Quality Housing for Sustainable Communities: Best Practice Guidelines, the applicant provided a Housing Qualitative Assessment and Schedule of Accommodation with the planning application. The proposed development provides for a range of houses with 2, 3 and 4 bedrooms, and I consider this mix to be acceptable as it would meet a range of tenure types. The submitted Assessment provides a breakdown of the floor areas for each unit. All

units meet or exceed the minimum requirements. Good sized private amenity spaces in the forms of rear gardens are also proposed for each dwelling.

- 7.2.5. In terms of public open space, Drawing No. RRA-2307-FI-100 confirms that approximately 3121 sqm (approximately 13.1% of the residential site area) of such space, also incorporating an enclosed play area, is provided centrally in the development, and it is overlooked by the majority of the proposed units. The quantum of the proposed public open space accords with section 14.5.11 of the Development Plan and its location within the site is acceptable.
- 7.2.6. I conclude that the proposal would meet relevant development standards and would provide future residents with a good standard of amenity.

Density

- 7.2.7 While density of development has not been raised as an issue in either the grounds of appeal or the grounds of observation, I consider it appropriate to examine this issue as the proposed density at c 21.6 appears to be low from a cursory examination of the proposed development.

The total area of the appeal site, comprising two agricultural fields, is given as 5.17 hectares. The eastern-most field is proposed to be used to accommodate the interim WWTP and pumping station, while the adjoining field to the west will accommodate the residential development of 51 no. houses. I note the appellant's stated intention to develop the adjoining eastern field for housing when the Killumney WWTP has sufficient additional capacity to accommodate same. With regard to density, it is appropriate to use the site area of the western field, where housing is proposed, to calculate the density of the proposed residential development, which is the subject of this application / appeal.

- 7.2.8 The Development Plan indicates a Medium A density on Specific Objective KO-R-01 lands, which is a range 30-50 units per hectare. The proposed development of 51 no. residential units on a 2.36 ha site would result in a residential development of 21.6 units per hectare (uph), which is below the minimum density indicated for this site. Accordingly I consider that the proposed development of 51 units on the lands would not comply with the minimum density indicated for Specific Objective KO-R-01 lands.

- 7.2.9 I note that Objective HOU 4-7: Housing Density on Residentially Zoned Land states that the Medium A Density would be the highest density category applicable to the smaller settlements (< 5,000 in population), and would generally apply to central sites within the core of such settlements, unless otherwise stated. Given that Medium A density is stated to apply to the Specific Objective KO-R-01 lands, I consider that the proposed development would therefore not be in compliance with Objective HOU 4-7 in terms of residential density.
- 7.2.10 However, I note the content of Table 4.1 Settlement Density Location Guide which indicates Medium B density (20-35 uph) for Key Villages (> 1,500), including Killumney / Ovens, and states that this is generally applicable for future development on edge of centre sites.
- 7.2.11 Section 4.9.5 states that Key Villages with a population of > 1,500 will generally focus on the application of Medium B density thresholds within centrally located sites and Medium C (5-20 uph) for all other greenfield lands. In this context I consider that the proposed development would be in compliance with Medium B density thresholds.
- 7.2.12 I conclude, therefore, that while the proposed development comprising 51 no. units on a 2.36 ha site and resulting in a net residential density of 21.6 uph is below the minimum density set out under Specific Objective KO-R-01, that the proposed development would not however be in conflict with Table 4.1 Settlement Density Location Guide, and would be acceptable in this case. In this regard I consider that the elements of the proposed development which influence the resultant density, including the proposed WWTP and pumping station, the mix of residential units and the quantum and location of public open space, to be acceptable.
- 7.2.13 Section 3.3.5 of the Compact Settlement Guidelines (2024) relates to Rural Towns and Villages (< 1,500 population) and states that the density of development at such locations should respond in a positive way to the established context. In my view, the proposed density of development will achieve this aforementioned goal.

7.3 **Wastewater**

Main ground of appeal

- 7.3.1 The proposed development seeks to install a foul sewer network which would connect to a proposed temporary WWTP and pumping station, to serve all 51 proposed units, located on adjoining lands to the east of the proposed residential development.
- 7.3.2 Item 3 of the Further Information request sought details of public network connection and a drawing detailing the full route from the proposed interim effluent treatment infrastructure to the network connection point. This route is reflected on Drawing Nos. 23135-PL05, PL06 and PL07 which were provided in response to the Further Information request. However, having examined the information and drawings submitted with the application and all such documentation provided as Further Information and unsolicited Further Information, there is ambiguity in relation to the final method of discharge to the River Bride, specifically whether the pumped discharge from the proposed development is upstream or downstream from the Killumney WWTP.
- 7.3.3 It is clear that the planning application was assessed by the planning authority on the basis that the treated effluent would enter the public sewer upstream of the Killumney WWTP. Conversely, the appellant states that the planning authority's assumption in this regard is incorrect and flawed, on the basis that the treated discharge to the River Bride from the proposed development by-passes the Killumney WWTP. This is reflected in a new drawing (Drawing No. 23135ETP-A) provided with the appeal, which shows a rising main, indicated to be from the proposed development, connecting to an existing transition manhole, from which there is an existing gravity outfall pipe to the River Bride. In this regard, this new drawing demonstrates that the proposed discharge point to the river is downstream from the Killumney WWTP.
- 7.3.4 The Killumney WWTP is managed by UÉ. The Wastewater Treatment Capacity Register for Cork published by UÉ in June 2023 provides an indication of available wastewater treatment capacity and available treatment capacity now or by completion of a project at construction. The UÉ Wastewater Treatment Capacity Register outlines that the Killumney WWTP (Ref. A0435) has a 'Green Status.' Green status means that there is 'spare capacity available.' It is also noted that there is a 'WWTP Project Planned / Underway.' I note that section 4.6.11 of Volume 4 of

the Cork County Development Plan 2022-2028 confirms that the WWTP in Killumney does not have capacity to accommodate further growth and that upgrade is required, which accords with the UÉ correspondence received in connection with the proposal at Further Information stage, referred to below.

- 7.3.5 In response to Item 1 of the Further Information request, the applicant provided Confirmation of Feasibility (COF) correspondence from UÉ (dated 23/02/2024) which is set out and detailed above under section 3.4 of this report. The COF, under the heading 'Wastewater Connection' states the following:

'To accommodate the proposed connection, upgrade works are required to the Killumney WWTP.'

The COF goes on to state that UÉ has no objection to the proposal to provide a temporary on-site WWTP to pre-treat wastewater before discharging to the public sewer until the public WWTP is upgraded, subject to five stated conditions.

- 7.3.6 The appellant's position is that UÉ has accepted the principle of the proposed temporary on-site WWTP, that the proposed treatment system will adhere to the standard and conditions as outlined by UÉ, that a maintenance contract will be entered into for management of the temporary WWTP (Item 2 of the Further Information response refers), which will be decommissioned when the Killumney WWTP is upgraded (in accordance with the plan provided by the applicant on foot of Item 4 of the Further Information request).

- 7.3.7 However, the appellant has not provided supporting documentation which confirms their contention that the effluent discharge arrangements accord with Drawing No. 23135ETP-A, submitted with the first party appeal. For example, a copy of the connection request to UÉ, which would normally demonstrate proposed effluent discharge arrangements is not provided by the appellant. Furthermore, the appeal documentation does not confirm whether UÉ has had sight of and agrees with the proposed effluent discharge arrangements as reflected in the new drawing submitted with the appeal. As such, I am not satisfied that there is sufficient documentary evidence available on file which demonstrates that the effluent outfall location, indicated on Drawing No. 23135ETP-A, is agreed with UÉ.

- 7.3.8 I note that UÉ's COF relating to the proposed development specifically states that to accommodate the proposed wastewater connection, upgrade works are required to the Killumney WWTP. Having regard to this statement, I consider it to be the case that the treated effluent from the proposed development discharges to the public sewer upstream from the Killumney / Ovens WWTP.
- 7.3.9 I also note Condition 4 of the COF which requires provision of a link between the proposed temporary pump station and the sump at Killumney WWTP, in order to temporarily limit flows during a high rainfall event within the combined sewer. This condition would also suggest connectivity between the temporary wastewater treatment infrastructure and the Killumney WWTP.
- 7.3.10 In conclusion, the proposed residential development which is to be served by a temporary on-site wastewater treatment system and pumping system is dependent on the upgrade to the Killumney waste water treatment plant, as confirmed by the COF provided by UÉ dated 23rd February 2024. The public waste water treatment plant at Killumney / Ovens is managed by UÉ and does not have capacity to accommodate further growth and requires upgrading. While there are plans for the upgrade of this plant, as detailed under section 7.3.11 below, there is no confirmed time frame for the delivery of this upgrade. Therefore, in my view, and having regard to the content of the UÉ COF, the proposed development would be prejudicial to public health, and as such I recommend that permission is refused.

Management and maintenance of temporary WWTP

- 7.3.11 In May 2021 Irish Water (now known as Uisce Éireann) announced that an upgrade for the Killumney WWTP had been selected as part of the Small Towns and Villages Growth Programme (STVGP), in which 13 schemes were listed. It is envisaged that this investment will provide additional capacity for the development of new housing while ensuring wastewater is treated to an appropriate standard. The UÉ COF (dated 23rd February 2024) relating to this proposal provides an update to the status of the planned upgrade to the Killumney WWTP. It notes that the Stage 1 Strategic Assessment commenced in 2023 and is moving to the Stage 2 Preliminary Business Case Assessment to determine the preferred option. The COF states that an indicative date for project completion will be provided following completion of the Stage 2 assessment.

- 7.3.12 I have a serious concern in relation to the development of the proposed temporary on-site WWTP, given the fact that a timeframe for the upgrade of the Killumney WWTP has not been confirmed. Having regard to the present status of the planned upgrade to the public WWTP in Killumney as reflected in the UÉ COF, it is clear that upgrade works are not imminent and are likely to be some years away, given that a number of further stages must be worked through before upgrade works commence.
- 7.3.13 In response to Item 15 of the Further Information request which sought details of the long term management of the proposed WWTP, the applicant advised that the plant would remain in its control during the construction phases, and would thereafter be transferred to a management company of which all house owners would be members of. There is no information on file which suggests the temporary WWTP would be maintained or taken over by UÉ, and it is apparent that the plant would therefore remain in private ownership. In my view this would be contrary to Circular Letter PD 1/08 relating to Taking in Charge of Residential Developments / Management Arrangements which recommends that wastewater treatment plants and associated buffer zones are taken in charge.
- 7.3.14 I acknowledge the information provided by the applicant relating to the management and maintenance of the temporary WWTP and the decommissioning of the treatment plant, in response to Further Information Items 2 and 4 respectively. However, in the absence of a definitive timeline for both the upgrading of the Killumney WWTP and the decommissioning of the proposed temporary on-site WWTP, I have a concern in relation to the long-term maintenance and management of the proposed on-site WWTP. In my view, the proposed development would therefore be premature pending the upgrade of the Killumney WWTP and would pose an unacceptable risk to public health and the environment. Therefore, I recommend that permission be refused for the proposed development.

7.4 Risk to water quality objectives

- 7.4.1 I note the concerns raised in relation to potential impacts on water quality as raised in the submissions made during the application stage by Inland Fisheries Ireland and An Taisce. I also note the similar concerns raised by the observer.

In relation to potential impacts on water quality, it is the case that treated wastewater from the Killumney / Ovens WWTP discharges to the Bride River (Bride (Lee)_50. According to the EPA interactive map viewer (accessed on 11th November 2024), the current Q Value Status in river water quality of the Bride River (Bride (Lee)_50 and the Lee (Cork)_90 are 'Good.' The Lee (Cork)_90 is 'Not at Risk' of failing to achieve WFD Objectives, while the WFD Risk for the Bride River (Bride (Lee)_50 is 'Under Review.'

I note that the Killumney / Ovens WWTP is not included in the latest UÉ Annual Environment Report (AER) 2023 or any of its preceding AERs. From the details available on the EPA website [Licence Profile | LEAP Online](#) (accessed on 8th November 2024) the treatment plant was granted a discharge licence in April 2011 under Licence Number A0435. Its Plant Design PE is given as 700.

In terms of latest compliance records on the EPA website, there is a record of an EPA site visit having taken place in June 2021 in response to a complaint of sewage fungus in the River Bride (Lee) at Ovens bridge and samples were taken from four locations, with the following observations made:

- The ammonia result of 10 mg/l on the effluent sample from the Killumney WWTP appears higher than expected from a WWTP providing secondary treatment;
- The o-Phosphate result of 0.021 mg/l, upstream of the Killumney WWTP, compares to an Environmental Quality Standard (EQS) for good status surface waters of 0.075 mg/l;
- The o-Phosphate result downstream at Ovens Bridge is slightly higher, at 0.024 mg/l and compares to an EQS (for good status surface waters) of 0.075 mg/l;
- There are three Section 4 Licenced discharges upstream from the Ovens Bridge station:- 1. Dell Technologies; 2. Essentra and 3. The Grange Manor WWTP). Cork County Council were requested to take samples from these three discharges to the river Bride, as part of the ongoing investigations into the complaint of sewage fungus in the river Bride at Ovens Bridge.

- 7.4.2. The planning authority raised concerns relating to potential adverse impacts on water quality and ecological objectives downstream from the discharge and sought, under Item 13 of the Further Information request, provision of a Water Framework Directive Compliance Assessment (WFDCA) arising from the increase in mass of pollutants of the development, but also from the increased additional hydraulic loading on the UÉ treatment plant. The WFDCA concludes that the treated discharge from the proposed development would not pose a significant risk to WFD water quality objectives, however this conclusion is on the basis that the discharge is made directly to the river.
- 7.4.3 Having regard to the conclusion reached under section 7.3 of this report, relating to the strong likelihood of the treated effluent from the proposed development discharging to the public sewer upstream from the Killumney / Ovens WWTP, it is noted that the WFDCA does not include any data relating to the concentration of pollutants arising from the increased hydraulic loading on the Killumney WWTP, which the planning authority confirms is at or above capacity. In the absence of such data, I consider that the proposed development would pose a risk to the WFD water quality objectives and could lead to a deterioration of the water status in the cases of the River Bride and the River Lee.

7.5 Other issues

7.5.1. Bat Assessment / Derogation licence

In terms of the Preliminary Bat Survey provided on foot of Further Information Items 17 to 19 inclusive, I note that a walkover survey of areas within the subject site was undertaken in January 2024. The observer considers that the submitted bat assessment is inadequate and that no surveys were undertaken during the appropriate periods. I agree with the observer in this regard. The bat survey was undertaken outside of the optimal summer period when bats are most active. As such, I am not satisfied that the bat assessment has captured the extent of bat activity on the site.

Section 4 of the Preliminary Bat Survey sets out recommendations and mitigation measures, where bats are recorded roosting in the trees proposed for felling. The assessment notes that should any of these trees be identified as a bat roost, a

derogation licence application will then be made to the NPWS to exclude the bats and fell the tree. The observer states that following on from a recent ECJ ruling (Case C-166/22 refers), a planning decision cannot be made until a derogation licence is in place. Having examined this judgement, made on 6th July 2023, the Court stated that the derogation procedure is not required to be integrated into the procedures for granting development consent. In effect, the lawfulness of the current derogation licensing process was upheld and derogation licences can continue to be granted post permission provided certain criteria are met.

7.5.2. Existing stormwater sewer

The observer refers to an existing stormwater sewer purportedly installed by the applicant without the benefit of planning permission. Such matters fall under the remit of the Enforcement Section of the Planning Authority, and as such, this matter is not for the consideration of the Board.

7.5.3. Previous application

The observer considers that the previous application pertaining to the lands (Planning Authority Reg. Ref. 22/6850) should be taken into consideration in this assessment. I note that this application was withdrawn and, therefore, no decision was made by the planning authority in respect of that application.

7.6 **Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)**

7.6.1 The planning authority's second refusal reason relates to potential impacts arising from the proposed development on, inter alia, freshwater ecology and European designated Sites, in the absence of an upgrade to the Killumney / Ovens WWTP.

7.6.2 I have considered the proposed development of the construction of 51 houses, a temporary wastewater treatment plant, a pumping station, and all associated works in light of the requirements of sections 177S and 177U of the Planning and Development Act 2000 as amended.

7.6.3 A Stage 1 screening report for Appropriate Assessment was submitted with the planning application. It notes that the Cork Harbour SPA (Site Code:004030) is located within 15 km of the proposed development and it states that the proposed site does not support hydrological or hydrogeological connectivity to this SPA. The

Cork Harbour SPA is located approximately 14 km to the east of the proposed development. The Stage 1 AA Screening concludes that the proposed residential development at Grange, Killumney, Ovens, Co. Cork, either alone or in-combination with other plans and / or projects, does not have the potential to significantly affect any European site in light of their conservation objectives, and therefore, a Stage 2 Appropriate Assessment is deemed not to be required.

7.6.4 Description of the proposed development

A description of the proposed development is presented in Section 2.0 of this report. In summary, the proposed development site is a greenfield site adjoining an existing residential estate, a car park associated with the Dell site to the north, other housing and a public road in the development boundary of Killumney / Ovens, Co. Cork. The development will comprise construction of 51 houses, a temporary WWTP and pumping station, pending the upgrade of the existing public WWTP at Killumney and associated site works on an overall site 5.17 ha. It is proposed that the wastewater from the proposed development will be treated by the temporary on-site WWTP and will be pumped to the UÉ sewer, which ultimately discharges to the River Bride. This river flows approximately 340 metres north-west of the subject lands, with flows from west to east. While there is ambiguity in relation to the discharge point to the river, as discussed previously in this report, based on the COF provided by UÉ which indicates that the Killumney WWTP requires upgrading to facilitate the proposed development, I consider the point of discharge will be upstream from the public WWTP. The proposed development will be connected to the local water network. Surface water is to be attenuated to be discharged to the existing surface water network at a rate equal to the Greenfield run-off rate to ensure no significant changes in flow at the final discharge point. A hydrocarbon interceptor is to be installed at each attenuation zone.

7.6.5 Observation / Submission on file

The observation received considers the proposed development would have significant impacts on downstream European Sites.

Inland Fisheries Ireland (IFI) also made two submission during the course of the application process. The latter submission notes that UÉ has stated that to accommodate a wastewater connection for the proposed development, upgrade

works are required to the Killumney WWTP and it recommends refusal of permission as the application is deemed to be premature.

7.6.6 European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). I consider that two European sites are potentially within a zone of influence of the proposed development (see Table 1 below), as follows.

- Cork Harbour SPA (Site Code:004030) located c 14 km from the site.
- Great Island Channel SAC (Site Code:001058) located c 20 km from the site.

7.6.7 The NPWS Site Synopsis relating to Cork Harbour SPA notes it is of major ornithological significance, being of international importance both for the total numbers of wintering birds (i.e. > 20,000) and also for its populations of Black-tailed Godwit and Redshank. In addition, it supports nationally important wintering populations of 22 species, as well as a nationally important breeding colony of Common Tern. Several of the species which occur regularly are listed on Annex I of the E.U. Birds Directive. The site provides both feeding and roosting sites for the various bird species that use it. Cork Harbour is also a Ramsar Convention site and part of Cork Harbour SPA is a Wildfowl Sanctuary.

7.6.8 The NPWS Site Synopsis relating to Great Island Channel SAC notes it is an integral part of Cork Harbour which is a wetland of international importance for the birds it supports. While the main land use within the site is aquaculture (oyster farming), the greatest threats to its conservation significance come from road works, infilling, sewage outflows and possible marina developments. The site is of major importance for the two habitats listed on Annex I of the E.U. Habitats Directive, as well as for its important numbers of wintering waders and wildfowl. It also supports a good invertebrate fauna.

Table 1

European Site	Conservation Objectives (Cos) and Qualifying Interests	Distance	Connections
Cork Harbour SPA (Site Code:004030)	CO – To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. Little Grebe <i>Tachybaptus ruficollis</i> Great Crested Grebe <i>Podiceps cristatus</i> Cormorant <i>Phalacrocorax carbo</i> Grey Heron <i>Ardea cinerea</i> Shelduck <i>Tadorna tadorna</i> Wigeon <i>Anas penelope</i> Teal <i>Anas crecca</i> Pintail <i>Anas acuta</i> Shoveler <i>Anas clypeata</i> Red-breasted Merganser <i>Mergus serrator</i> Oystercatcher <i>Haematopus ostralegus</i> Golden Plover <i>Pluvialis apricaria</i> Grey Plover <i>Pluvialis squatarola</i> Lapwing <i>Vanellus vanellus</i> Dunlin <i>Calidris alpina alpina</i> Black-tailed Godwit <i>Limosa limosa</i>	c 14 km	Yes. Surface water discharge to River Bride following attenuation. Treated wastewater from the site would be pumped to Killumney WWTP, which discharges to River Bride.

	Bar-tailed Godwit <i>Limosa lapponica</i> Curlew <i>Numenius arquata</i> Redshank <i>Tringa totanus</i> Black-headed Gull <i>Chroicocephalus ridibundus</i> Common Gull <i>Larus canus</i> Lesser Black-backed Gull <i>Larus fuscus</i> Common Tern <i>Sterna hirundo</i> Wetlands		
Great Island Channel SAC (Site Code:001058)	COs – To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Great Island Channel SAC. To restore the favourable conservation condition of Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) in Great Island Channel SAC. Mudflats and sandflats not covered by seawater at low tide Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	c 20 km	Yes. Surface water discharge to River Bride following attenuation. Treated wastewater from the site would be pumped to Killumney WWTP, which discharges to River Bride.

7.6.9 As the proposed application site is not located within or adjacent to a European site there will be no direct impacts and no risk of habitat loss, fragmentation or any other direct impact. Furthermore, the site does not contain any habitats of conservation value and does not have habitat to support any of the Special Conservation Interests of any Special Protection Area.

- 7.6.10 I note that the Stage 1 AA Screening has considered the western part of the site only, and has omitted the eastern part, which is to accommodate the proposed temporary WWTP and pumping station.
- 7.6.11 The Stage 1 AA Screening has not included / assessed potential impacts on Great Island Channel SAC. There is an indirect hydrological connection between the subject lands and this SAC, as referenced by the planning authority (see 7.6.12 below).
- 7.6.12 The Stage 1 AA Screening states that the proposed site does not support hydrological connectivity (groundwater or surface water) to the Cork Harbour SPA. However, there has been no reference made in the Stage 1 Screening to any indirect hydrological connections. There is in fact an indirect hydrological connection between the appeal site and Cork Harbour SPA and Great Island Channel SAC. The proposal seeks to ultimately discharge treated wastewater from the proposed temporary on-site WWTP to the River Bride, which flows into the River Lee approximately 3.5 km downstream from the Killumney WWTP, which in turn flows into Cork Harbour.
- 7.6.13 The proposed residential development to be served by a temporary on-site wastewater treatment system and pumping system is dependent on the upgrade to the Killumney waste water treatment plant, as confirmed by the COF provided by UÉ dated 23rd February 2024. The public waste water treatment plant at Killumney / Ovens is managed by UÉ and does not have capacity to accommodate further growth and requires upgrading. An upgrade for the Killumney WWTP had been selected as part of the Small Towns and Villages Growth Programme (STVGP). The UÉ COF notes that the Stage 1 Strategic Assessment commenced in 2023 and is moving to the Stage 2 Preliminary Business Case Assessment to determine the preferred option. No indicative date for delivery of the upgrade has been provided to date. It is likely that the upgraded Killumney WWTP will discharge to the River Bride, which is currently the case.
- 7.6.14 In the absence of the upgrade, I consider that there is potential for the proposed development to impact on wetland habitats within Cork Harbour SPA, affecting foraging and roosting opportunities for Special Conservation Interest (SCI) species and for Qualifying Interest (QI) habitats of the Great Island Channel SAC. As such,

significant effects upon the conservation interests of the SPA and SAC cannot, therefore, be definitively ruled out.

7.6.15 Screening Determination

On the basis of the information provided with the application and appeal and in the absence of a Stage 2 Appropriate Assessment the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Cork Harbour SPA and Great Island Channel SAC, or any other European site, in view of the Conservation Objectives for these sites. In such circumstances the Board is precluded from granting permission.

8.0 **Recommendation**

- 8.1. Having regard to the above it is recommended that permission is refused based on the following reasons and considerations.

9.0 **Reasons and Considerations**

1. The Confirmation of Feasibility provided by Uisce Éireann states that the proposed development is dependent on the upgrading of the Killumney Waste Water Treatment Plant. The proposed development includes the installation of an on-site temporary wastewater treatment system and pumping station to serve the proposed residential units and would connect to the existing public Wastewater Treatment Plant in Killumney. The Killumney Wastewater Treatment Plant managed by Uisce Éireann is currently at capacity and whilst there are plans for the upgrade of this plant, there is no confirmed timeframe for the delivery of this project. In the absence of this upgrade, the proposed development would be prejudicial to public health.

2. The Board has concern in relation to the long-term maintenance and management of the proposed temporary on-site system in the absence of a confirmed timeframe for the upgrading of the Killumney Wastewater Treatment Plant. The proposed development would therefore be premature pending the completion of the Killumney Wastewater Treatment System, would pose an unacceptable risk to public health and

the environment, and would be contrary to the proper planning and sustainable development of the area.

3. Uisce Éireann has confirmed that the proposed development is dependent on the upgrade to the public waste water treatment plant. Until the Killumney Wastewater Treatment Plant is upgraded, the proposed development would have to rely upon a private wastewater treatment plant, which would discharge into the River Bride. The applicant has failed to demonstrate that this wastewater treatment plant would be capable of operating without an unacceptable deterioration in the water quality of the River Bride and the River Lee into which it flows. In these circumstances, this proposal may result in the pollution of this river system with the attendant threat to public health that this would pose.

4. The Confirmation of Feasibility provided by Uisce Éireann confirms that the proposed development is dependent on the upgrade to the Killumney Waste Water Treatment Plant. It is considered, therefore, that the proposed development would discharge to the Killumney Wastewater Treatment Plant, with a primary discharge to the River Bride, which flows into the River Lee and has a hydrological connection to the Cork Harbour SPA (Site Code:004030) and the Great Island Channel SAC (Site Code: 001058). Having regard to the information submitted with the planning application and the appeal, in conjunction with the deficiencies identified in the Stage 1 Appropriate Assessment Screening, and in the absence of the upgrade of the public wastewater treatment plant above its existing capacity, the Stage 1 AA Screening Report cannot definitively conclude that the proposed development would not have a significant impact negative impact on the Conservation Objectives of a European Site. It is considered, therefore, that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the

integrity of a European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

John Duffy
Planning Inspector

14th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320466-24		
Proposed Development Summary	Construction of 51 houses, a temporary wastewater treatment plant, pumping station and all associated site development works.		
Development Address	Grange, Killumney, Ovens, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (500 dwellings)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320466-24	
Proposed Development Summary	Construction of 51 houses, a temporary wastewater treatment plant, pumping station and all associated site development works.	
Development Address	Grange, Killumney, Ovens, Co. Cork.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The proposed housing development is to be located on residential zoned lands. The proposed development is not exceptional in the context of the existing environment. Adjoining lands to the east accommodate an existing residential development, while lands to the west contain individual houses. Construction waste can be managed through standard Waste Management Planning. Localised construction impacts will be temporary.	No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?	No. The total site area of the site is 5.17 ha. The proposed housing is located on lands measuring c 2.36 ha.	No

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	No.	
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No. Any issues arising from proximity / connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment). The proposal includes standard best practices methodologies for the control and management of surface water on site.	No No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.		