



An
Bord
Pleanála

Inspector's Report

ABP-320949-24

Development	Construction of a dwelling and all associated site works.
Location	6A Old Rathmichael, Shankill, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D24A/0523/WEB
Applicant(s)	Miguel Fitzgerald and Natacha Fitzgerald Soto
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Miguel Fitzgerald and Natacha Fitzgerald Soto
Observer(s)	1) Malachy Smith 2) Daniel and Rose-Mary Mc Laughlin 3) Deirdre Cannon
Date of Site Inspection	8 th January 2025
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of circa 0.3 hectares, is a greenfield site located at the end of Old Rathmichael which is a cul-de sac residential development. The site would access onto the public road via an existing entrance from No. 6 Old Rathmichael to the south of the site. The site is bound by residential properties to the south and east with undeveloped lands located to the rear (northeastern portion of the site). The boundaries of the site are defined by hedgerows and low tree coverage.
- 1.2. The topography of the site slopes from the northwest (at the back of the site) down to the southeast (at the front), turning south before joining a shared driveway with No. 6 Old Rathmichael before accessing onto the cul-de-sac road. There is a small shed sited to the northwestern corner of the site. The site is currently in use as a meadow.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a detached, 7.8 metre high (dormer) 3 bed dwelling (approx. 208 m² GIA) including driveway, car parking for 2 cars, new service & drainage connections, together with a wastewater treatment system & soil polishing filter, new gate, piers & pedestrian gate to existing entrance, and associated site development works.

3.0 Planning Authority Decision

- 3.1. The Planning Authority refused permission on the 9th of September 2024 for the following reason:
 1. Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks 'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans'. The subject site is located on Tier 2 lands which are not currently sufficiently serviced to support new development and the future development of Rathmichael is contingent upon the timely delivery of supporting

infrastructure as outlined under Section 2.3.7.2 and Appendix 1 of the County Development Plan. The site is located within the Rathmichael Local Area Plan boundary, for which a Local Area Plan will be prepared. Section 2.6.1.3 Local Area Plan Plan-Making Programme of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 notes that within the A1 zoned lands at Rathmichael there are a number of existing properties and 'minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.' The proposed development which comprises the construction of a new dwelling, having regard to its nature and scale, would not constitute 'minor modification and extensions to existing property'. As such, the proposed development would be contrary to the provisions of Section 2.6.1.3, would set an undesirable precedent for other similar developments and would be contrary to the A1 zoning objective of the area, which seeks 'to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans'. It is considered that the proposed development undermines the intended plan-led and co-ordinated approach to residential development in the Rathmichael area as provided for in the Dun Laoghaire Rathdown County Development Plan 2022-2028. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

2. The proposed development is not in accordance with the current Dun Laoghaire Rathdown County Development Plan (2022-2028) Policies T1 (Integration of Land Use and Transportation Policies) and T4 (Development of Sustainable Travel and Transportation) to support and promote sustainable modes of transport. Residents of the proposed development would be reliant on travel by car due to a lack of local amenities/facilities/destinations within a reasonable travel time/distance by foot from the proposed development and the distance and lack of safe walking to the public transport network. The proposed development is also considered to be premature pending the preparation and completion of the Rathmichael Local Area Plan. Due to Endangerment of Public Safety as a result of additional traffic and vulnerable road users on Old Rathmichael and the adjacent linking roads, which do not currently have adequate pedestrian facilities, the proposed development would endanger public safety by reason of traffic hazard or obstruction of road

users or otherwise and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report forms the basis for the decision to refuse permission. stating:
 - The proposed development is deemed incompatible with the zoning objective A1, which seeks to provide for new residential communities and sustainable infrastructure in accordance with approved LAPs.
 - The site is on Tier 2 lands, which are not currently sufficiently serviced for new development.
 - The proposal is considered premature and would set an undesirable precedent.
 - The proposed intensification of the site and the precedent that the proposed development would set would result in additional traffic and vulnerable road users along the surrounding local road network.
 - No concerns with respect to AA or EIA.

3.2.2. Other Technical Reports

- Forward Planning – Emphasized the need for a plan-led approach and the importance of the Rathmichael Local Area Plan (LAP) for coordinated development.
- Transport Planning – Recommended refusal due to inadequate pedestrian facilities and reliance on car travel.
- Drainage Planning – No objections, subject to conditions.
- Environmental Health Officer – Requested further information on wastewater treatment systems and compliance with EPA guidelines.

3.3. Prescribed Bodies

Uisce Eireann – No objection subject to pre-connection agreement.

3.4. Third Party Observations

33 number third-party submissions were made on the application. 30 number of the submissions were in support while 3 number were against. The main points raised are summarised as follows:

- Zoning of the land is suitable for residential development.
- The applicant has close ties to the area.
- Recent planning applications have been approved by An Bord Pleanála.
- Development is of high quality.
- Concerns raised regarding the polishing filter and percolation area on site.
- Substandard utilities present in Old Rathmichael area.
- Concerns over capacity of additional demand on water supplies.
- Overlooking from proposed development.
- Concerns raised about risk of power outages and issues that could arise with regard the proposed pumping station.
- Impact on construction vehicles on accessing the site No.6 Rathmichael.
- It is unclear how existing 'right of way' would be affected.

4.0 Planning History

There is no relevant planning history for this site.

Notable Planning Histories in the area

ABP-319661-24 – Refers to refusal (14.10.24) by the Board for a detached two storey including a new entrance onto Ballybride Manor, against a decision by Dun Laoghaire County Council to refuse initial permission. The main reason for refusal by the Board related to policy context/ prematurity. This site is 830 metres to the east of the site.

ABP-315819-23 – Refers to a grant of permission by the Board (29.05.2024) for 5-bed detached two storeys dwelling along Old Rathmichael road, against a decision by Dun Laoghaire County Council to refuse initial permission. The main reason for refusal

by the Planning Authority related to policy context/ prematurity and traffic and transport matters. This site is 320 metres to the southeast of the site.

ABP-315721-23 – Refers to a grant of permission (7.03.2024) by the Board for a two-storey dwelling and new entrance onto Lordello Road all at site to front of Clova Lordello Road., against a decision by Dun Laoghaire County Council to refuse initial permission. The main reason for refusal by the Planning Authority related to policy context/ prematurity and traffic and transport matters. This site is 840 metres to the east of the site.

5.0 Policy Context

5.1. National Policy

National Planning Framework

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. National Guidelines

Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024).

Development Management, Guidelines for Planning Authorities (2007).

5.3. Regional Policy

Regional Spatial and Economic Strategy 2019-2031.

RPO 3.2: Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartment's Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'.

5.4. Development Plan

The Dun Laoghaire – Rathdown Development Plan 2022 – 2028 is the relevant Development Plan for the subject site.

The subject site is subject to two zoning objectives.

The southern part to the site has an "Objective A" zoning which seeks, *"to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans"*.

The northern part of the site has an "Objective G" zoning which seeks, *"to protect and improve high amenity area"*.

Chapter 2: Core Strategy

- 2.3.7.2 (Tiered Approach to Land Zoning)
 - Tier 1 lands are serviced, and in general, part of or contiguous to the built-up footprint of an area.

- Tier 2 lands are not currently sufficiently serviced to support new development but have potential to become fully serviced within the lifetime of the Plan.
- 2.4.6 (Phasing): Notes that Old Connaught and Rathmichael are not currently serviced, and the future development of these areas is contingent upon the timely delivery of supporting infrastructure. It is considered that a plan-led approach to the development of both Rathmichael and Old Connaught is of paramount importance to ensure the proper planning and sustainable development of these new residential communities.
- 2.6.1.3 (Local Area Plan Plan-Making Programme): Emphasises the preparation of Local Area Plans (LAPs) for areas like Rathmichael to ensure proper planning and sustainable development. It is noted that within the A1 zoned lands at both Old Connaught and Rathmichael there are a number of existing properties. Minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.
- Policy Objective CS10 – Local Area Plans: It is a Policy Objective to implement a programme for the preparation of Local Area Plans and to prioritise areas in accordance with the overarching strategic objectives of the Core Strategy including those areas which are experiencing and/or likely to experience large scale development or regeneration.

Chapter 4: Neighbourhood – People, Homes and Place

- 4.3.1.2 Policy Objective PHP19: Existing Housing Stock – Adaptation
- 4.3.1.3 Policy Objective PHP20: Protection of Existing Residential Amenity

Chapter 12 – Development Management

- 12.3.1.1: Design Criteria
- 12.3.7.7: Infill
- 12.4.8: Vehicular Entrances and Hardstanding Areas
- 12.8.3.3 (i): Private Open Space for Houses

- 12.8.7.1: Separation Distances
- 12.8.7.2: Boundaries
- 12.8.11: Existing Trees and Hedgerows

Chapter 14 – Specific Local Objectives

- SLO 86: It is an Objective of the Council, to prepare a Local Area Plan for Rathmichael.

Appendix 1 – Tiered Approach to Land Zoning – Infrastructure Assessment

- 4.7 New Residential Communities: Old Connaught and Rathmichael

“Old Connaught and Rathmichael are not currently serviced, and the future development of these areas is contingent upon the timely delivery of supporting infrastructure. Implementation plans incorporating phasing programmes are to be prepared as part of the Local Area Plan making process for both new communities, linking development with the commensurate delivery of supporting infrastructure.”

Zoning Tier Rathmichael:

- Tier 2 pending delivery of requisite water infrastructure.
- Tier 2 pending delivery of requisite waste-water infrastructure.
- Tier 2 pending delivery of requisite transport Infrastructure.

County Development Plan 2022-2028 Two-Year Progress Report. (March 2024)

The progress report details the status of the RLAP.

- Work is progressing on an Infrastructure Capacity Assessment Study (ICAS) for the southeast area of Dún Laoghaire-Rathdown. This Study will inform the Rathmichael LAP.
- An Area Based Transport Assessment (ABTA) for the Rathmichael LAP area is being undertaken as part of the ICAS.
- In addition, a Water and Wastewater Strategy, a SuDS Strategy and a Strategic Flood Risk Assessment are being prepared in addition to other relevant assessments to inform the plan-making for Rathmichael.
- Liaison with stakeholders and prescribed bodies is ongoing.

5.5. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The closest European Sites are as follows:

- Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately circa 2.4 km to the southwest of the site.
- Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately circa 4.0 km to the northeast of the site.

5.6. EIA Screening

Refer to Form 1 in Appendix 1. Class 12(c) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.

Refer to Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged against the Planning Authority's decision to refuse permission. The grounds of appeal can be broadly summarised as follows:

- Prematurity
 - The subject site is located within an area designated for the Rathmichael Local Area Plan which has a zoning 'Objective A1' under the Dún Laoghaire Rathdown County Development Plan 2022-2028 is which is to *"provide for*

New Residential Communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans”.

- The appellant submits that the proposed development should not be refused based on prematurity and references the provisions of the Section 38 Guidelines ‘Development Management – Guidelines for Planning Authorities’ (June 2007) stating, *“development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame”.*
- The appellant states they wrote to the Forward Planning Section and received a response 11/09/2024 saying the process for preparing the draft Rathmichael LAP has not yet began. They also say notwithstanding this response, the Dun Laoghaire website had been recently updated about the preparation of a LAP for Rathmichael stating, *“It is anticipated that the pre-draft public consultation process for the Rathmichael Local Area Plan will be undertaken in Q1 2025”.*
- The appellant refers to other similar appeal decisions granted by the board under ref: ABP-301845-18 which relates to a site in Balbriggan which a masterplan was to be prepared and ABP-315819-23 relating to a site at Old Rathmichael in proximity of the site that was granted permission recently – See notable planning history).
- Unreasonable to effectively sterilise large area of Dun Laoghaire functional area for potentially years based on prematurity, given the county is in a housing shortage.
- The appellant also references the previous guidance ‘Development Control Advice and Guidelines’ (October 1982). The guidelines suggest that a planning authority should consider if proposals would likely be incompatible with the provisions of the local area plan, and a common-sense approach should be applied in determining planning applications in the absence of a local area plan.

- Pattern of Development
 - The site is within the built-up development boundary of Rathmichael.
 - The development site is an infill site at the end of a cul-de-sac.
 - The site configuration and size lend itself to a single dwelling only.
 - The footprint follows the building line.
 - The site sits below the 90-metre contour.
- Transport
 - The applicants refers that the appeal site is zoned residential and that public transportation options will become more accessible with future improvements in the local infrastructure.

6.2. Planning Authority Response

Response received dated 10th October 2024 requesting the Board to uphold the decision of the Planning Authority.

“The Board is referred to the previous Planners Report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.”

6.3. Observations

Three number observations on the appeal have been received from the following:

- Daniel & Rose Mary Mc Laughlin (No. 5 Old Rathmichael, to the immediate east).
- Deirdre Cannon (No. 6 Old Rathmichael, to the immediate south).
- Malachy Smith (No. 7 Old Rathmichael, Shankill, to the adjoining south).

Points of note include:

- Wastewater Treatment
 - There have been historical challenges with wastewater treatment systems in this area. 5 no WWTS all within 500 metres – 600 metres of the site. WWTS poses a risk to other neighbouring properties.
 - Concerns raised of power outages from proposed pumping station.
- Surface Water Drainage
 - Concern regarding location of soakaway located close to an interceptor drain.
 - Conclusion of drainage report not a true representation of site conditions.
- Water Supply
 - Water supply to Old Rathmichael is already inadequate.
- Residential Amenity
 - Overlooking onto side patio and garden area of No. 6 Old Rathmichael.
 - Inadequate separation distances between properties.
- Flooding
 - Reference made to site too small to accommodate a house which would lead to flooding the area.
- Other Matters
 - There is the existence of a court order (ref:1999/08964) on No. 6 Old Rathmichael regarding remedial drainage works following continued discharge of effluent and surface water run off onto our site to the east (No.5).
 - Concerns regarding a Right of way along the southwestern boundary of the site.
 - Concerns raised with regard to construction vehicles accessing the site.
 - Electricity, phone and internet services in Old Rathmichael are inadequate.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Local Area Plan/Prematurity
- Traffic & Transport Matters
- Other matters

7.1. Principle of Development

- 7.1.1. The subject site is located within the boundary for the Rathmichael Local Area Plan. However, there is currently no approved RLAP. The proposed dwelling is located entirely on 'Objective A1' zoned lands which seeks, *"to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans"*. The polishing filter percolation area is however positioned to the northern portion of the site which has an 'Objective G' zoning which seeks, *"to protect and improve high amenity area"*. The proposed wastewater treatment system is ancillary to the residential development. Residential development is too 'open to consideration' on these G1 lands having regard to the zoning matrix. Therefore, I am satisfied that the proposed development is in accordance with the zoning objectives for the site and that no material contravention of the plan exists.
- 7.1.2. The Core Strategy of the plan acknowledges the presence of existing properties within the A1-zoned lands in Rathmichael and permits minor modifications or extensions to these properties ahead of the preparation of a Local Area Plan. It highlights that these lands are currently unserviced and, in line with the tiered zoning approach outlined in the National Planning Framework, are classified as Tier 2 lands. Tier 2 lands are not currently sufficiently serviced to support new development but have potential to become fully serviced within the lifetime of the Plan. Their future development is

dependent on the timely provision of necessary supporting infrastructure. A plan-led approach is deemed essential to ensure the appropriate and sustainable development of these emerging residential communities.

- 7.1.3. I consider that the development of the site in an ad-hoc non planned approach would establish an undesirable precedent for similar development proposals in the Rathmichael area and that a planned approach as would be set out in a Local Area Plan would ensure that the zoning objective A1 is achieved through a sustainable approach.
- 7.1.4. I conclude that the development of a new dwelling at this location is not a minor modification or extension to an existing property and subsequently cannot be permitted in principle in the absence of a Local Area Plan and therefore is not in accordance with the provisions of zoning objective A1 of the Dun Laoghaire – Rathdown Development Plan 2022 – 2028.

7.2. Local Area Plan/Prematurity

- 7.2.1. The issue with regard to prematurity pending the approval of the Rathmichael Local Area Plan has been raised as a reason for refusal by the Planning Authority and by the observers.
- 7.2.2. The timeframe for the Rathmichael Local Area Plan (RLAP) has yet to be determined, however preparatory work has commenced, as referenced in the County Development Plan 2022 – 2028 Two Year Progress Report (March 2024). Work includes an Infrastructure Capacity Assessment Study (ICAS), Area-Based Transport Assessment (ABTA), Water and Wastewater Strategy, Sustainable Urban Drainage Systems (SuDS) Strategy, and a Strategic Flood Risk Assessment. Stakeholder engagement and prescribed body liaison are ongoing. The RLAP is anticipated to proceed with pre-draft public consultation in Q1 2025. Furthermore, I note the Planning Authorities website has been updated since the submission of the appeal stating, *“It is anticipated that the pre-draft public consultation process for the Rathmichael Local Area Plan will be undertaken in Q1 2025”*. Website accessed on the 16/1/25.

- 7.2.3. The subject site is located within the RLAP boundary and is zoned A1, designated for new residential communities and Sustainable Neighbourhood Infrastructure. The lands are classified as Tier 2 in the Core Strategy, meaning future development depends on the timely delivery of supporting infrastructure. The RLAP is expected to provide more specific zoning details and is critical for determining whether proposed developments align with the plan.
- 7.2.4. I note section 7.16 of the Development Management Guidelines (2007), development should not be refused on the basis of prematurity unless there is a realistic prospect of the relevant strategy or plan being completed within a stated timeframe. The RLAP preparation is committed to within the County Development Plan but lacks a definitive completion timeframe beyond the overall plan's lifespan (to 2028).
- 7.2.5. The zoning objective A1 and the Tier 2 classification suggest that major developments cannot proceed until the RLAP is approved. Minor modifications or extensions to existing properties may be permissible, but larger proposals such as this, in my view, would be deemed premature in this case as it depends on the RLAP's completion to ensure alignment with infrastructure and zoning provisions. Furthermore, I note a comparable application under ABP-319661-24, 830 metres to the east of the site. The Board refused permission (14.10.24) based on the development being premature pending the approval of the RLAP.
- 7.2.6. Based on the above, I consider that the proposed development is premature pending the approval of the RLAP and not solely on commitment alone as set out in the Development Management Guidelines.

7.3. Transport & Traffic Matters

- 7.3.1. I note the concerns raised by the Planning Authority with regard to transport matters such as lack of pedestrian facilities and the development causing a traffic hazard, as outlined in the second reason for refusal.

- 7.3.2. The report from the Transport Planning Section concludes that residents of the proposed development would be reliant on travel by car to a lack of local facilities /amenities/destinations within a reasonable time due to lack of safe walking infrastructure to the public transport network. The applicants refers that the appeal site is zoned residential and that public transportation options will become more accessible with future improvements in the local infrastructure.
- 7.3.3. Having inspected the site, the road network in the area primarily consists of narrow carriageways with occasional segregated walkways. In my opinion, it is not practical to safely walk or cycle from the proposed site to the nearest activity centre in Shankill without encountering conflicts between pedestrians, cyclists, and motor vehicles. I consider that the road infrastructure in this location is inadequate to support safe movement for all users. The lack of appropriate infrastructure results in traffic conflicts and safety risks. Furthermore, the increased traffic generated by the proposed development, along with the precedent it could set for similar developments, would pose a significant threat to public safety due to traffic hazards.

7.4. Other Matters

- 7.4.1. I note that a wastewater treatment system is proposed (secondary treatment system and polishing filter area). I note the DLR Environmental Health Officer's report requested further information, namely the submission of a plan showing the position of neighbouring wastewater treatment systems demonstrating compliance with distance requirements, as per Table 6.2 EPA Code of Practice for Domestic Wastewater Treatment Systems 2021. Having reviewed the submitted documentation and given the overall site size and location of existing residential properties relative to site which I consider acceptable, I consider that the required separation distances as per Table 6.2 is achievable.
- 7.4.2. I note the concerns raised by the observers with regard to surface water drainage. A report dated 28th August 2024 from the DLR Drainage Section raised no concern with regard to surface water drainage subject to conditions including the requirement that no site surface water shall be discharged to the public sewer. I have reviewed the

documentation on file with regard the proposed soakaway which in my view is acceptable and would be in accordance with BRE Digest 365.

- 7.4.3. The concerns raised by the observers with regard to increased pressure on water supplies is a matter for Uisce Eireann. I note Uisce Eireann had been consulted and indicated no objection subject to a pre-connection agreement to be place.
- 7.4.4. Residential Amenity concerns regarding inadequate separation distances between properties and overlooking onto a side patio of No. 6 Old Rathmichael. have been raised by an observer. I note no first-floor windows are positioned in the side gable facing this property. The location of the proposed development would have a northeast to southwest orientation and I note the satisfactory separation distance between the proposed development and the adjacent properties. Therefore, I consider there would not be any overlooking that would be detrimental to adjacent properties.
- 7.4.5. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I consider that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 7.4.6. Flooding has been raised as a concern by the observer at No. 6A to the immediate south. The observer has submitted no evidence in support of this claim that the site has been subject to a flood event. The proposed development is located beside any water course. Having viewed the OPW flood maps it is my view the site is located within Flood Zone C which has a low risk of flooding. The Planning Authority have not raised issue with flood risk in their assessment. Therefore, it is my view the proposed development is acceptable and would not pose any adverse flood risk.
- 7.4.7. Matters relating to construction traffic have been raised by the observer. I consider matters with regard to construction traffic can be adequately dealt with by condition, if the Board is minded grant to permission.

- 7.4.8. Electricity outages and internet connection concerns have been raised by the observers. Whilst they are critical to modern living, in my view these are not planning matters. Electricity and internet services are a matter for the services providers and not for the Board to consider.
- 7.4.9. I note commentary of the observers with respect to the existence of a court order (ref:1999/08964) on No. 6 Old Rathmichael regarding remedial drainage works and the maintenance of a 'Right of way' from the public road through the site. I refer the Board, to Section 34 (13) of the Planning and Development Act, 2000 (as amended) confirming, that, '*A person shall not be entitled solely by reason of a permission under this Section.*' Civils matters are to be resolved between parties and not for the Board to adjudicate.

8.0 Appropriate Assessment Screening

- 8.1. Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that permission should be REFUSED for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. Having regard to the A1 zoning objective of the area, as set out in the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the objective of which seeks to provide '*for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans*', Section 2.6.1.3 of the development plan (Local Area Plan-Making Programme), which sets out that within

the Rathmichael A1 zoned area '*minor modifications and extensions to existing properties*' can be considered in advance of the relevant local area plan being in place, and Appendix 1, Section 4.7 (New Residential Communities: Old Connaught and Rathmichael) which sets out that development in this Tier 2 area is contingent upon the timely delivery of supporting infrastructure, It is considered that the proposed development of a new residential unit at this location, with a new vehicular access, is not a minor modification or an extension to an existing property and would not be in accordance with the A1 zoning objective for the area, section 2.6.1.3 or Appendix 1, Section 4.7 of the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the additional traffic generated by the proposed development, and the precedent it would set for similar developments, would endanger public safety by reason of traffic hazard, due to the increase in conflicts between pedestrian/cyclist/vehicle movements resulting from the proposed development and the inadequate provision of pedestrian and cyclist facilities throughout the road network at this location.

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.

Gerard Kellett
Planning Inspector
30th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320949-24		
Proposed Development Summary	Construction of a dwelling and all associated site works.		
Development Address	6A Old Rathmichael, Shankill, Dublin 18		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10 - Construction of more than 500 dwelling units	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____ Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320949-24
Proposed Development Summary	Construction of a dwelling and all associated site works.
Development Address	6A Old Rathmichael, Shankill, Dublin 18
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is situated in a semi-urban area and is removed from sensitive natural habitats and designated sites and landscapes of identified significance in the County Development Plan.

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in Section 171A of the Act.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____

Appendix 2

AA Screening

I have considered the proposed development of a storage warehouse in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. An Appropriate Assessment Screening was undertaken by the Planning Authority as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. The Planning Authority concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed description is presented in Section 2 of my report. In summary, permission is sought for the construction of a two-storey dormer dwelling with total floor area of 208 m² on a stated site area of 0.315 hectares. Foul drainage is proposed to drain to an onsite wastewater treatment system and surface water is proposed to drain to a soakpit within the site. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.

The proposed development site is not located within or adjacent to any European site. The closest European site is sites being:

- Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately circa 2.4 km to the southwest of the site.
- Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately circa 4.0 km to the northeast of the site.

A summary of European Sites is presented in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)
Ballyman Glen	<u>Habitat</u> - Petrifying springs with tufa formation (Cratoneurion) - Alkaline fens <u>Species</u> None	2.4 km	No connection
Rockabill to Dalkey Island SAC	<u>Habitat</u> - Reefs <u>Species</u> - Harbour Porpoise - Phocoena phocoena	4.0 km	No connection

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

The proposed development would not have direct impacts on any European site. During site clearance, demolition and construction of the proposed and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites, namely:

- Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately circa 2.4 km to the southwest of the site.
- Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately circa 4.0 km to the northeast of the site.

or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The separation distance between the subject site and the European and the absence of a direct hydrological connection between the sites.