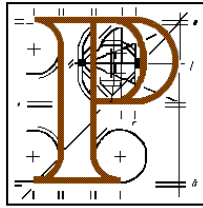


An Bord Pleanála



Inspector's Report

PL 06F 246379

DEVELOPMENT:

Mixed use Residential and Commercial development comprising Nineteen Dwellings comprising existing detached dwelling ("Duinch") with boundary changes, 10 four bed two storey houses and 4 three bed houses , a three storey commercial building comprising a retail unit and medical centre, a with a terrace and a café/coffee shop.

LOCATION:

Duinch, Hollystown, Hollywoodrath, Dublin 15.

PLANNING APPLICATION

Planning Authority:

Fingal County Council.

P. A. Reg. Ref:

FW15A/0114

Applicant:

Crekav Landbank Investments Ltd.

Decision:

Refuse Permission.

APPEAL

First Party Appellant:

Crekav Landbank Investments Ltd.

Type of Appeal

First Party Against Refusal of Permission.

Inspector:

Jane Dennehy.

Date of Inspection:

27th June and 1st July, 2016.

1. SITE LOCATION AND DESCRIPTION

- 1.1 The site of the overall development which has a total stated area of 3.34 hectares is that of “Duinch”, a five bed detached house which on land which may originally have been part of a demesne estate and with a designed landscape at Hollystown. The house is enclosed by lawns and dense trees and woodlands which are located along the inner side of the boundaries. The site opens onto Hollystown golf course to the west and north west.
- 1.2 Vehicular is off the R121 at Hollywoodrath on the eastern site frontage of Ratoath Road off which there is vehicular access. It is north of the Redwood residential development and south of a disused overflow carpark for the golf course. The ground level is relatively flat and lower than the level within the Redwood development.
- 1.3 A watercourse is located along the east and the south of the site adjoining the Redwood residential development and it continues in a north westerly direction across the golf course. Parts of the watercourse are culverted.

2. THE PROPOSED DEVELOPMENT.

- 2.1 The application lodged with the planning authority indicates proposals for a mixed use development comprising a local village centre and residential development:

- Retention of the existing dwelling, “Duinch” with alterations to the boundaries and vehicular entrance.
- 18 No. houses;

(4 no 3 bed two and a half storey terraced houses,
4 no 3 bed, two and a half storey semi-detached houses, and,
10 no, 4 bed two storey detached houses.)
- A two storey commercial building providing for:
 - A Medical Centre (364 square metres) on the first floor incorporating a terrace on the north elevation and
 - A Retail unit (300 square metres) and a Café/Coffee Shop (96 square metres) at ground floor level.
- A new vehicular and pedestrian entrance, car and cycle parking storage landscaping boundary treatment and site works.
- A new pumping station and 100 mm diam. foul rising main along Ratoath Road and the R121 with discharge to the pumping station at Hollywoodrath to the south west of the site location.

- Sixty carpark spaces including two spaces per dwelling.
- Three areas allocated (according to the original application) of public open space at south east corner, adjacent to the eastern boundary and in front of the proposed coffee shop. (Total of 2,507 square metres (18 percent of total site area)
- Stormwater drainage is designed to a SUDS system and incorporates attenuation. Foul drainage proposals include provision for a 100 mm rising main (to be taken in charge) between the site and the pumping station at Hollywoodrath and incorporates a new pumping station at the site.

3. **PLANNING HISTORY:**

P. A. Reg. Ref. FW14A/0067: Permission was granted for connection to the public sewer, decommissioning of a septic tank and retention of a conservatory and garage.

P. A. Reg. Ref. FW97A/0387: A grant of Permission for a hotel development (6,043 square metres) was not taken up.

P. A. Reg. Ref. FW97A/0589: This is prior grant of planning permission on lands to the west for twenty for bed hotel which has expired and was not taken up.

4. **THE APPLICATION AND PLANNING AUTHORITY DECISION.**

4.1 The application includes:

A planning statement,
Engineering services report,
Tree survey report
Arboriculture impact statement,
Tree protection strategy,
Landscape development report,
Construction management plan
Architectural design statement and,
Appropriate assessment report.

4.2 The application was subject to multiple item additional information and clarification of additional information requests to which responses were received on 26th November, 2015 and 28th January, 2016 prior to the determination of the decision on 3rd March, 2016. The Transportation Section's report indicates no objection subject to conditions. The

report of the National Monument Section, Department of Arts, Heritage and the Gaeltacht notes the proximity to Recorded Monument DU013-004 and contains a recommendation for a condition for pre-development testing.

- 4.3 The planning authority was satisfied with details submitted to clarify Part V arrangements, signage, entrance arrangements, (A swept path analysis is provided) water supply arrangements and entrance arrangements, internal road layout and on-site parking and confirmation that it is not intended that the development be a gated development. (A management company is to take charge of the pumping station.)
- 4.4 The planning officer was not satisfied with submissions made in response to the requests for multiple items of information arising from the recommendations made in the technical reports of the Water Services Section and the Parks and Operations Section.
- 4.5 **Water Services Section. (Planning and Infrastructure.)**

The final report notes the clarification of information submission in which it is stated that a revised site layout is necessary because:

- The 225 mm diam storm water drain is located in (catchment B) and encroaching (Pipe run SA7-SA8) on private property. It needs to be located away from private property.
- A Riparian Strip with a minimum of ten metres width from the edge of the watercourse (at the southern end of the site) is required to meet Water Framework Directive and SUDS requirements.

Also required according are:

- Longitudinal and cross sections and flows within the water course over the length through the site.
- Details of Open space to be used for 1 in 30 and 1 in 100 flood event attenuation it being noted that a maximum of ten percent of the open space area can be used according to SUDS.
- Detail of attenuation volumes and areas, it being noted that cellular storage structures and discharge to the foul system is unacceptable. (Compliance with *SUDS (Version 6.0 Fingal County Council April 2006)* is required.

4.6 Parks and Operations Section:

The final report on the clarification of additional information submission contains a recommendation for refusal of permission due to:

- Potential adverse impact of the SUDS system on the existing trees,
- The proposed removal of 119 out of a total of 197 existing trees being noted and, removal of a further 39 due to poor condition.
- Concern that the remaining forty trees to be retained will survive due to the proximity to SUDS which would result in loss of the trees and sylvan character of the site.

4.7 According to planning officer, 66.5 bed spaces at 25 square metres per bed space generates a requirement of 1662.5 square metres public open space, excluding incidental space and space in front of the cafe.

4.6 **Third Parties:** An **objection** was received from Peter Tutty of No 3 Redwood Park who objects on grounds of potential overlooking of his property, impact on privacy and construction on Saturdays. He refers to the dwelling design, layout, boundary treatment, variation in ground levels, drainage, rural amenity, protection of fauna and ornithology.

4.7 A **submission** was received from Regina MCafghy of Hollywoodrath who supports application provided that the pumping station and rising main has sufficient capacity to serve remaining undeveloped lands. Servicing of the undeveloped lands by condition is recommended.

4.8 The **planning officer** in his final report refers to the recommendations in the reports of the Water Services Division and Parks and Operations Division. He concludes that while the mix of uses proposed is acceptable and appropriate the current proposal is unacceptable on account of the significant implications of the issues raised in the technical reports for the layout of the proposed development.

4.9 Planning Authority Decision:

By order dated, 4th March, 2016, the planning authority decided to refuse permission on the basis of the three reasons which are reproduced below:

- (1) *“Having regard to the location of a watercourse within the application site and the lack of a suitable riparian strip within the proposed layout, it is considered that the proposed development would materially contravene Objective BD 23 of the Fingal County Development Plan, 2011-2017 which states, ‘Ensure that no development, including clearance*

and storage of materials, takes place within a minimum distance of ten-15 m measured from each bank of any river, stream or watercourse in the County.’ The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

(2) “Having regard to the location of the 225 mm diam. surface drain within the curtilage of unit 01 and the associated access and maintenance issues, it is considered that the proposed development would be contrary to the greater Dublin Regional Code of Practice for Drainage Works, Version 6.0 Fingal County Council, April 2005 and would be prejudicial to public health. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

(3) “Having regard to the limited quantity in addition to the poor quality of the public open space dominated by Surface Water Drainage Systems and to the adverse impact of such Drainage Systems to the trees proposed for retention, it is considered that the proposed development would result in a substandard layout and an excessive loss of trees which would materially contravene Objective BD 27 the Fingal County Development Plan, 2011-2017 which states, ‘Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to the landscape character and ensure that the proper provision is made for their protection and management.’ The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

5 THE APPEAL.

5.1 An appeal was received from Crekav Landbank Investments, on its own on behalf on 30th March, 2016. The submission includes a site plan constraints map, a site plan, an accompanying consultant’s report on drainage matters incorporating details in an appendix the stream capacity and flow methodology, and, drainage layout drawings and an account of the planning background context and the application.

5.2 According to the appeal:

- the site is zoned and serviced and the planning authority has a responsibility to implement its own development plan (section 15 of the Act refers.) and,
- An Bord Pleanála having regard to the references to, “material contravention” in the reasons for refusal, can grant permission where there are conflicting objectives or where the objectives

are not clearly stated in the development plan (section 37 (2) (b) (ii) of the Act refers.)

- The lands would be sterilised if the fifteen metre riparian strip (of circa 1,690 m sq.) required by Objective BD 23 is implemented because together with tree retention, the entirety of the southern section of the site cannot be developed. (Site layout constraints drawing (FA pS [00] 01 REV 01) refers.)
- Serviced land would be wasted and the objective is in conflict with the policy for efficient use of zoned, serviced land as stated in "*Sustainable Residential Development: Guidelines for Planning Authorities in Urban Areas*". (2009)
- The LC zoning identifying the site as in the centre of the village in the draft development plan cannot be realised if the southern portion of the site is sterilised and the area zoned RV in the current plan is to be rezoned "Residential".
- Permission was previously granted following appeal at Campions Pub (PL 2457010 refers) where the planning authority had decided to refuse permission for reasons relating to open space provision, stormwater drainage and lack of provision for a riparian corridor. A similar approach to the planning authority decision is requested on grounds that the ditch on the southern boundary is not of a scale that warrants a riparian strip as provided for in Objective BD 23.
- The proposed development is not in material contravention of Objective BD 27 of the development plan for protection for trees and hedgerows of amenity or biodiversity value and/or which contribute to landscape character because open space provision is adequate; retains a woodland aspect and the SUDS proposal does not put trees at risk:
- 1 in 10 year storm attenuation is in underground storage, 1 in 30 year overflows are accommodated above ground to the front of the site. There will be no impact on tree viability as storm events are infrequent. The permitted development at Campions Pub and nearby at Hollywoodrath include surface level SUDS in open space. (P. A. Reg. Ref. F15A/009 refers.) SUDS requirements and significant open space are provided.
- The majority of tree cover is in the southern portion of the site. This area has zoned (RV) Rural Village for a long time. It must be accepted that some tree removal is necessary on underutilised sites. The existing house has a poor relationship to the road and the tree cover is not conducive to an attractive

public realm. To realise the LC zoning objective at the north of the site, the southern portion must not be sterilised.

- Loss of tree cover cannot be a reason for refusal. The architectural visualisations and landscape details submitted with the application show an attractive environment with good natural amenity. An appropriate boundary can be planted.
- The usable public open space and public square have good quality and quantity and accords with Objective OS02A of the development plan.
- The rationale for refusal under Reason 2 is unnecessary. The matter could have been dealt with by compliance.
- With regard to the 225 mm diam sewer, revisions to Plot 1 providing for a type 'A' house provides for a distance of three metres between the sewers and structures. The house could be moved further east and the sewer further west to adjoin the open space. Access could be provided via the open space adjoining plot No. 1. Further clarification and technical details are in the drawings and the engineering report is included with the appeal.
- In the clarification of additional information submission it is demonstrated that revisions provide for appropriate wayleaves to ensure access to the pipe line and a minor revision moving the pipeline westwards. Maintenance access can be provided by the internal access road and an area of green space west of Plot 1 and via the adjoining open space. It is not accepted that the proposed development is prejudicial to public health due to contravention of the SUDS Drainage Works Version 6 (Fingal Co. Council.)
- The applicant has made extensive efforts to date to demonstrate that the proposed development is acceptable and at appropriate for the zoned appeal site lands. Any outstanding matters of detail can be addressed by condition.

6. RESPONSES TO THE APPEAL

- 6.1 **Planning Authority:** It is stated in a submission dated 27th April, 2016 that the applicant had a number of opportunities to address the concerns and that the issues in the technical reports have serious implications for the overall layout which resulted in the decision to refuse permission.

6.2 According to the submission:

The contentions as to conflicting objectives in the development plan and sterilisation are unreasonable. Appropriate development on the site is facilitated by the 'RV' land use objective and Objective BD 23. The requirement for the riparian strip only affects the part of the watercourse that is not culverted.

6.3 The open space is of poor quality being dominated by SUDS devices. There is concern about the survival of the forty trees to be retained, (of the 197 existing trees on site) due to the close proximity to the SUDS measures. The sylvan character and all the trees would be lost.

6.4 The proposed relocation of the wayleave further west if it is outside the curtilage of the dwelling on Plot 1 would be considered acceptable A (A wayleave through third party land is not appropriate.)

7. DEVELOPMENT PLAN.

7.1 The operative development plan is the Fingal County Development Plan, 2011 – 2017 according to which the site location comes within the areas of three zoning objectives:

- Zoning Objective LC: Local Centre: *“To protect provide for and or improve local centre facilities”*. The proposed land-uses are permitted in principle.
- Zoning Objective RV Rural Village: *“To protect and promote the character of the rural village and promote a vibrant community in accordance with an approved local area plan and the availability of physical and community infrastructure.”* Residential development is permitted in principle.
- Zoning Objective OS Open Space: *“To preserve and provide for open space and recreational amenities”*.

7.2 Relevant policy objectives include:

- Policy Objective BD 23: It is the policy of the county council to “ensure that no development, including clearance and storage of materials, takes place within a minimum distance of ten-15 m measured from each bank of any river, stream or watercourse in the County.”
- Objective G 129 contains criteria relating to the provision for riparian strips adjacent to watercourses.
- Policy Objective OS02 relates to minimum public open space requirements and other criteria including a requirement for a

minimum of ten percent of a development site to be designated for use as public open space.

- Policy Objective OS25: states that SUDS (measures) do not form part of the open space provision except where it contributes in a significant and positive way to the design and quality of open space.
- Policy Objective BD27: It is the policy of the county council to: “protect existing woodlands, trees and hedgerows which are of amenity of biodiversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management.”
- Policy Objective BD28 provides for protection preservation and effective management of trees and groups of trees.
- Policy G 129: To ensure protection of streams watercourse and their corridors maintaining a riparian strip of 10 to 15 metres along watercourses and a thirty metre corridor along rivers indicated on the green infrastructure maps outside urban areas.

8. EVALUATION

8.1 In principle, given the development plan zoning objectives, a mixed use development is considered appropriate for the site and is consistent with enhancement and consolidation of a village settlement. The planning officer’s comments to this end are noted. When considered on a *de novo* basis with regard to qualitative and quantitative standards for the individual residential units and with regard to roads layout, access arrangements and transportation issues there are no concerns.

8.2 The issues central to the determination of a decision and considered below are those which arise in the three reasons for the planning authority decision to refuse permission. They are:

Reason 1: provision for a riparian strip (Objective BD 23)

Reason 2 Requirement for the 225 mm diam. surface water sewer outside third party lands.

Reason 3: Public open space provision and protection of trees and woodlands (Objective BD 27)

8.3 The claims that Section 15 of the Planning and Development Acts 2000- 2015 (PDA) should have been invoked because the planning

authority must facilitate implementation of its development plan and that Section 37 (2) (b) (ii) should be invoked due to conflict between development plan zoning and specific objectives are taken into consideration in the following evaluation.

8.4 Reason 1: provision for a riparian strip - (Objective BD 23)

In the course of the site inspection, the watercourse along the entirety of the southern boundary adjacent to the Redwood development could not be visually inspected adequately due to dense undergrowth and vegetation beneath the trees and woodlands. It is estimated that the trees and woodlands have a depth of eight to twelve metres on the inner side of the eastern and southern boundaries. Where the watercourse route could be fully seen at the eastern side of the site the route was mostly dry with little evidence of water. At the western end the route towards the golf course had some flow of water whereas further to the north-west across the golf course the route is culverted.

- 8.5 The requirement of policy BD 23 and G129 of the development plan is onerous in terms of impact on development potential of zoned lands. While it is accepted that it is a minor watercourse and partly culverted, the area within the strip is mostly in woodland and associated vegetation and groundcover. This strip could be of special interest merit in terms of biodiversity in addition to natural amenity.
- 8.6 It is possible that fulfilment of requirements for a riparian strip can be achieved through open space designation within a development. The lands affected by the riparian strip objectives are within the area zoned RV within the site but in the subject proposal seven units of the residential element are positioned within this space. As acknowledged in the submission of the consulting engineers, these seven units would be omitted if the riparian strip is to be retained free of development.
- 8.7 Despite the significance of this element of the development it is not accepted that implementation of Objective BD 23 for retention of the riparian strip is in material conflict with the "RV" zoning objective, (or the zoning objectives for the adjoining space within the site) due to sterilisation. It is agreed that implementation of this objective imposes major constraints on development potential but the zoning/development objectives for the entire site are not neutralised.
- 8.8 To this end, it is not accepted that there is a case whereby the planning authority is required to invoke section 15 of the Act with regard to implementation of the development plan and for the Board to invoke section 27 (2) (b) (ii) of the act to enable it to grant permission for the development. However some flexibility with regard to the implementation of the requirement may be feasible, taking into account the other considerations.

8.9 Reason 2 Requirement for the 225 mm diam. surface water sewer outside third party lands.

The proposal within the appeal to locate the sewer outside of the curtilage of Plot No 1 overcomes the planning authority's concerns about a route through third party lands. The revised location is satisfactory when considered in isolation, in terms of the needs and requirements for surface water drainage arrangements. However it is subject to the overall layout of the development having particular regard to the public open space provision, drainage arrangements and impact on trees and woodlands and sylvan character of the rural village location being acceptable.

8.10 Reason 3: Public open space provision and protection of trees and woodlands (Objective BD 27)

Interconnected issues within the reason for refusal which can be identified as:

Quality and quantity of public open space provision with the scheme.

Possible dominance of SUDS measures within the designated open space.

Potential adverse impact on existing trees to be retained.

8.11 It is acknowledged that there are no specific objectives within the development plan for preservation of the trees and woodlands or for the house. Nevertheless the site has a high quality sylvan character giving enclosure to the house and gardens. The trees and woodlands are a strong and positive feature within the rural village landscape characteristics in public views from the road. The contention in the appeal that the sylvan character is negative in impact on the amenity value of the house is rejected.

8.12 The proposed drainage arrangements which have been modified a number of times unsuccessfully to provide for SUDS measures that satisfy the planning authority's requirements. If the SUDS arrangements are accepted it would be at the expense of significant deficiencies in quality of public open space provision resulting in substandard development. The effect would be exacerbated by the additional impact of significant removal and loss of trees and woodlands, to allow development within the riparian strip and consequent impact on the features and special interest of the site location and the established rural village characteristics. Acceptance of public open space provision dominated by SUDS measures would be inadvisable for these reasons and in view of the risk to the survival

of the very limited number of trees to be retained from the existing total within the site of almost two hundred. It is considered that in spite of the efforts on the part of the developer, it has not been possible to provide for a satisfactory solution and the residential element of development as a result would be seriously substandard and rural village character would adversely affected which is contrary to the zoning objective for the southern section of the site.

8.13 Furthermore, although not specifically taken into consideration by the planning officer or referred to in the appeal, Units 8 and 9 in the layout give rise to serious concern. would have adverse impact by severance of the integral relationship of the house to the lawns and trees adjacent to the road frontage.

8.14 Even though the original house is not included on the RPS it has an integral relationship with the in along with the surrounding lawns and enclosure by the trees and woodlands which enclose it and contribute to the rural village character, amenity and interest. It is considered that these integrated features are subject to the RV zoning which provides for the protection of the character of the rural village. To this end, it is considered that Dwelling unit Nos. 8 and 9 due to their position in front of and perpendicular to the existing house on the existing lawns negatively impact on the integrity and context of aforementioned features within the site and fails to contribute to the achievement of the zoning objective.

8.15 **Impact on amenities of adjoining residential development.**

An objection at application stage from the occupant or owner of No 3 Redwood in which there are a range of concerns about adverse impact on residential amenity and privacy. Based on examination of the lodged plans and inspection, it is estimated that the separation distance between the footprints of the proposed development and the property in Redwood is circa twenty metres and a variation in ground levels is also noted. In order to eliminate potential for overlooking, it is recommended that the dormer style rear elevation windows of Unit Nos 1-7 be omitted. In the event that permission is granted the applicant can be required to provide for an alternative house type or for substitution of a rooflight by condition. (Substitution of a rooflight may require confirmation that any habitable accommodation would be compliant with Building Regulation standards.)

8.16 **Conclusion.**

It is agreed with the applicant's agent that Reason 1 for the refusal of permission can be overcome with regard to the route of the 225 mm diam sewer but Reasons 1 and 3 of the planning authority decision to refuse permission are supported.

- 8.17 In view of the number and range of deficiencies it is not considered that a flexible approach with regard to the implementation of development plan standards to any particular element of the development can be justified or that there is any case to support the argument that Section 15 of the Act should have been invoked by the planning authority or that the Board should invoke section 37 (2) (b) (ii) of the Act.
- 8.18 Owing to the number of significant concerns and cumulative impact it is considered that a flexible approach to the implementation of the policies and objectives for the riparian strip in this instance is unwarranted.
- 8.19 Consideration has also been given to possible scope for possible favourable consideration of the proposed commercial element of the proposed development in the northern section of the site, (subject to the zoning objective: 'LC') but it has been concluded that this is not be feasible, and would not accord with sustainable development interests, given the integrated nature of the overall proposal and reliance on the development of the site in entirety for drainage, open space etc. A split decision is not recommended appropriate and is not in the interests of good development management practice.

8.20 **Appropriate Assessment Screening.**

The site is within fifteen kilometres of the following sites:

South Dublin Bay Special Area of Conservation [Site 0210],
South Dublin Bay and River Tolka Estuary Special Protection Area (4024),
North Dublin Bay Special Area of Conservation (site 0206)
North Bull Island SPA (Site Code 4006),
Malahide Estuary SAC (Site Code 0205) and,
Malahide Estuary SPA (Side Code 4025)

- 8.21 The applicant provided an appropriate assessment screening report with the application which has been consulted for appropriate assessment screening purposes.
- 8.22 The site is at a serviced location and is not within any European sites. The proposed development involves site clearance including removal of trees and woodlands, removal of materials off site, retention of the existing house with alterations to boundaries and construction of a mixed use residential and commercial development. A minor waterway is located along the southern boundary of the site, part of which is culverted. It flows toward the Tolka River.
- 8.23 The South Dublin Bay Special Area of Conservation [Site 0210], the South Dublin Bay Estuary Special Protection Area (4024) are

downstream from the site. There are no pathways toward the Malahide Estuary SAC (Site Code 0205) and the Malahide Estuary SPA (Site Code 4025)

- 8.24 The conservation interest of the South Dublin Bay Special Area of Conservation [Site 0210] is *tidal mudflats and sandflats*. They have unfavourable conservation status but there is likely to trend towards improvement to the habitat condition.
- 8.25 The North Dublin Bay Special Area of Conservation (site 0206) is circa four kilometres from the site location

The conservation objectives relate to:

Mudflats and Sandflats, [1140]
Annual Vegetation drift lines [1210]
Salicornia and other annuals colonizing mud and sand [1310]
Atlantic salt meadows [1330]
Petalwort [1395]
Mediterranean salt meadows [1410]
Embryonic shifting dunes [2110]
Shifting white dunes [2120]
Fixed grey dunes [2310]
Humid dune slacks [2190]

These habitats have unfavourable conservation status. The threats include pollution, agricultural and recreational activities, invasive species and land reclamation and defences.

- 8.26 The South Dublin Bay and River Tolka Estuary Special Protection Area (4024) and The North Bull Island SAC,(4006) have qualifying interests which comprise several wintering, breeding and wetland and bird species.
- 8.27 Waters in Dublin Bay are classified as unpolluted and pollutants will be decreased in the longer term with the inclusion of SUDS systems for storm drainage in new development and upgrades to the Ringsend WWTW that will reduce pressure on habitats and species in the Bay.
- 8.28 The potential source-pathways-receptor linkage is surface and foul water drainage between the site of the proposed and the European sites, possibly along the watercourse along the southern boundary.
- 8.29 Wastewater is to be discharged through the public system to for treatment and disposal. The impact on the loading on which or consequent nutrients in receiving waters would be negligible and it is of note that former problems of overloading of the system have been overcome.

- 8.30 At construction stage surface water runoff occurring at any significant rate would contain imperceptible contaminants and ecological effects would be localised and would occur for short periods only. Sediment control measures are to be put in place with no sediment being allowed to the stream. Sustainable Urban Drainage Systems (SUDS) which will minimise run off have been incorporated in the development which will be in place at the operational stage.
- 8.31 There is no risk to the European sites at construction and operational stages due to the distance from the site and lack of direct source pathway linkage.
- 8.32 Taking into consideration the nature and scale of the proposed development and the characteristics of the Special Protection Areas and Special Areas of Conservation located within 15 kilometres of the site and having regard to the .Appropriate Assessment Screening report provided with the application a screening determination has been reached. It is reasonable to conclude on the basis of the information available that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European sites within fifteen kilometres of the site. A Stage 2 Appropriate Assessment is therefore not required.

9. RECOMMENDATION.

- 9.1 In view of the foregoing, it is recommended that the appeal be rejected and that the planning authority decision to refuse permission should be upheld. A draft order is set out overleaf.

DECISION

Refuse Permission on the basis of the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS.

Having regard to the Fingal County Development Plan, 2011-2017 and:

- The location of the site within an area subject to the zoning objective: “RV: *To protect and promote the character of the rural village and promote a vibrant community in accordance with an approved local area plan and the availability of physical and community infrastructure*”;
- the proposed location of residential units adjacent to the watercourse inside the southern boundary of the site adjacent to which provision for a ten to fifteen metre riparian strip is required according to Objective BD23
- Objective BD 27 which provides for the protection of trees woodlands and hedgerows of amenity value that contribute to landscape character and to excessive extent of removal of trees and woodlands to facilitate the development resulting in loss sylvan characteristics of the site and the risk to the survival of the limited number of existing trees to be retained and,
- To the substandard layout of the proposed development including poor quality of public open space provision and distribution which is dominated by SUDS measures and to Objectives OS02 and OS 25 which provides for minimum public open space standards which are exclusive of SUDS unless they contribute in a significant positive way to the design and quality of open space,

It is considered that the proposed development would materially contravene in the Fingal County Development Plan, 2011-2017 by failing to satisfy the development and specific objectives therein and would therefore be contrary to the proper planning and sustainable development of the area.

JANE DENNEHY
Senior Planning Inspector.
5th July, 2016.