



An
Bord
Pleanála

Inspector's Report ABP-300026-17

Development	Demolition of stables and agricultural shed. Construction of a residential care facility, renovation of Skidoo House to provide short stay visitor accommodation and all associated works.
Location	Skidoo, Ballyboughal, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0196
Applicant(s)	Remedy Care Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Remedy Care Limited
Observer(s)	None
Date of Site Inspection	9 th of February 2018
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The site is located c.3.5kms to the north west of Swords and c.3km south of the village of Ballyboughal in the townland of Skidoo, North County Dublin. It is located to the east of the R108, and north of the intersection of the R108 with Balheary Avenue. Rolestown village is c.1.5km away. The main access to the site is via a tree lined avenue from the R108 to the west and via a secondary avenue along its southern boundary allowing access onto a local tertiary road. In addition, the farm buildings to the north-east of the development are currently accessed via a grassed track from the local road to the south.
- 1.2. As shown on the plans submitted the site extends to an area of 8.86ha and relates to Skidoo House and Stud Farm and is to be taken off the larger more extensive landholding. The land is mainly in agricultural use and is relatively flat and slopes to the south west towards the R108. There is an open and culverted watercourse/ ditch/stream which flows through part of the site, proximate to the agricultural shed to be demolished. The site currently comprises a two storey uninhabited period dwelling house and single storey annex, close to its north eastern corner the rear of which looks towards a three-sided courtyard/stable block, located to the northern boundary of the site. An extensive complex of farm buildings is located to the north east of the stable block and is outside of the application site boundaries.
- 1.3. The Broadmeadow river flows to the south of Balheary Avenue and is approximately 1km south west and down gradient of the site. The surrounding area is predominantly rural/agricultural in nature with sporadic detached dwelling units fronting to the R108 and the more minor road network to the south of the site. There is a small residential development of c.9units c.0.5km to the south. Balheary Shooting Club is located to the south-west of the farm complex, while Roganstown Golf and County Club estate is also located further to the south of the complex.

2.0 Proposed Development

- 2.1. This is to consist of the following all at a site of c.8.8ha at Skidoo House and Stud, Skidoo, Ballyboughal, Co. Dublin:

- Demolition of a number of stables and agricultural shed (c.966sq.m);
- Construction of a 120 bedroom Residential Care Facility within 2 blocks of 1-2 storeys and comprising a reception building connecting to the main accommodation building; Ancillary resident and staff rooms, offices, storage, plant, kitchen and laundry rooms; South west facing roof garden (total floor area c.7,209sq.m);
- Renovation of Skidoo House to provide associated short term stay visitor accommodation comprising 9no. bedrooms, kitchen/dining and living areas, meeting rooms and contemplation room (c.654sq.m);
- Renovation and conversion of existing eastern stable wing to provide workshops, storage and administrative use (c.436sq.m);
- Renovation and conversion of existing stone barn to provide for ancillary telemedicine use with associated staff and administration facilities (c.275sq.m);
- Provision of an ESB sub-station and generator (c.48sq.m);
- All associated site development works, services provision, drainage, landscaping and open space, bicycle and car parking, access and boundary treatment works.

2.2. Reports and Documents submitted in support of this application include:

- Planning Report – McGill Planning Consultants
- Architectural Heritage Impact Assessment – Frank Keohane Historic Building Consultant
- Visualisation Study – Architectural Visualisations
- Transport Statement – DBFL Consulting Engineers
- Site Specific Flood Risk Assessment – DBFL
- Engineering Services Report DBFL
- Landscape Design – Ronan MacDiarmada
- Appropriate Assessment Screening – Scott Cawley
- Ecological Impact Assessment – Scott Cawley

2.3. Other Documents submitted with the application include the following:

- A Schedule of Floor Areas of the proposed facility to include the two storey 120 bedroom Residential Care Facility (c.7,209sq.m) and the Additional Facilities i.e the ESB sub-station (48sq.m). The Schedule includes regard to the refurbishment of the existing Skidoo House and associated facilities. The proposed overall total for the development is given as c.8,622sq.m. Details are also given of site coverage, plot ratio, public/private landscaped open space (1.94ha) and of parking including bicycle parking.
- A letter to confirm that the legal land owner of Skidoo Stud, Star Rose Investments Limited consents to and authorises Remedy Care Limited to apply for this permission.
- A professional Medical Statement from Dr Tom O’Callaghan, on behalf of ‘i-heed’ (a medical education organisation) for the care model and design rationale for the proposed facility that is the subject of this planning application.
- Drawings showing the existing and proposed development to include Site Layout, Floor Plans and Elevations.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 27th of September 2017 Fingal County Council refused permission for the proposed development for 3no. reasons, which include the following:

1. The Applicant has failed to demonstrate to the satisfaction of the Planning Authority that the development as proposed to locate on lands zoned Rural ‘RU’, meets the requirements of the Fingal Development Plan 2017-2023. It would therefore materially contravene the zoning objective for these lands.
2. It would materially contravene Objective DMS46 of the Fingal Development Plan which requires residential homes to be located in towns or villages for reasons of sustainability, accessibility etc. A demonstrated need to locate in the rural environment has not been established.

3. It has not been demonstrated that the proposed means of access to the facility, requiring the provision of a new vehicular entrance onto the R108 would not impact negatively on the historic setting of Skidoo house and complex. The development as proposed would be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner, had regard to the locational context of the site, planning history and policy and to the submissions made. Also to the recommendations made in the Council's Departmental Reports. An assessment is made of the existing and proposed buildings relative to the proposed development. This includes Skidoo House, Stable Block and Barn, the proposed design and layout of the Residential Care Home and regard is had to the Care Model and design rationale – Biophilic Design. It is noted that there is no public sewer system to service the proposed development and regard is had to proposed foul and surface water drainage, water supply. Also to Flood Risk Assessment, Appropriate Assessment Screening and Ecological Impact.

The Planner considered that it has not been demonstrated that there is a need to locate this proposal in the rural area or that it would comply with the objectives of the Rural 'RU' land use zoning. They also have concerns about infrastructural matters.

3.2.2. *Further Information* was requested to include the following:

1. To address discrepancies within the Engineering Services Report relative to the drainage infrastructure, foul discharge calculations and to ensure that the scheme can be serviced by the on-site waste water treatment plant without detriment to public health or to the surrounding environment.
2. Details relative to surface water discharge rate, and compliance with the relevant standards.
3. To confirm that the relevant bat surveys/inspections have been conducted (Section 7.3.1 of the Scott Cawley Ecological Impact Assessment relates).

4. To provide full details relative to the intended medical care use of the existing stone barn and day to day operation and compatibility of same.
5. A revised site layout plan and details relative to the proposed re-routing of the water course on site. Also to third party consents relative to same and to undertake a revised Natura Impact screening.
6. To address that such a highly vulnerable development is appropriate to the site's flood risk category and the recommendations of the Planning System and flood Risk Management Guidelines.
7. To provide further details relative to parking, access layout, sightlines, boundary treatments, signage. Revisions to the access/entrance are requested and these should have regard to the existing historical and architectural setting of the entrance.
8. To confirm that all the drainage associated with the proposed pwwts will be located within the red line boundary of the subject site.
9. Details relative to water quality and sample analysis.

3.2.3. McGill Planning Ltd submitted a response on behalf of Remedy Care Ltd and this included the following:

1. They note the response from DBFL Consulting Engineers and provide that the drainage information requested has now been clarified.
2. Item no. 2 is also covered in the DBFL Consulting Engineers response, relative to the site area, attenuation volume, catchment area and compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
3. They refer to the bat study report and bat mitigation strategy prepared by Scott Cawley and provide details of surveys.
4. They provide that the stone barn will be used as ancillary office/administration use and not a telemedicine use as previously proposed and refer to revised drawings.
5. They clarify that the 'watercourse' is in fact a drainage ditch that runs through the site and refer to updated drawings in this regard, and note

that all re-routing works to the drainage ditch are confined to lands located within the subject site. They also refer to the updated AA Screening report prepared by Scott Cawley.

6. The subject site is located in Zone C, which is at low risk of flooding and they refer to the FI cover letter prepared by DBFL Consulting Engineers for more information.
7. They refer to revised drawings which show they have reduced the number of carparking spaces on site. Details are provided relative to the existing and proposed entrances, sightlines, boundary treatment and signage.
8. The proposed wwts is located within the subject site as outlined in red on the Site Layout Plan.
9. They provide a response relative to water quality and sampling and note that a reed bed system will be introduced into the water feature.

Revised Public Notices were submitted.

- 3.2.4. *Planner's Response* – In assessing the development as proposed and as per the F.I submitted the PA is not satisfied based on the information submitted that a residential care home of the nature and scale proposed is appropriate on the subject site and the need to locate in a rural environment by reason of the care provided has not been satisfactorily demonstrated in line with the requirements of the land use zoning. The subject lands are un-serviced and will require the installation on on-site waste water facilities. They also have concerns about the access and consider that the preferred location of such uses is on appropriately zoned serviced lands within an urban settlement. They recommend that permission be refused for 3no. reasons.

3.3. **Other Technical Reports**

Planning and Strategic Infrastructure Department

The *Transportation Planning Section* has regard to the proposed access and parking arrangements and to the Transportation Statement submitted and the TRICS assessment carried out. They requested that Further Information be submitted to provide justification for providing car parking spaces in excess of the Development

Plan Management Standards. Also to provide details relative to the access from the main entrance from the Naul Road detailing the set-back required to provide adequate sightlines and other clarification issues. Subsequent to the submission of the F.I they had no objections subject to conditions.

The *Water Services Section* is concerned that insufficient information has been submitted. They requested that further information be submitted relative to foul sewage and surface water. Subsequent to the submission of F.I they had no objections subject to conditions.

Environmental Health

The Principal EHO does not object and recommends a number of conditions.

Conservation Officer

The Planner's Report has regard to a verbal report from the C.O and comments are noted relative to their preference to retain the existing historic entrance. They recommend that if a new entrance is required, a condition should be included seeking the planting of trees on both sides of the spur to the entrance avenue.

3.4. Prescribed Bodies

Irish Water

They have no objection subject to conditions.

3.5. Third Party Observations

A number of Submissions have been received from local residents and other interested parties and their concerns include the following:

- They question the need for a large scale nursing home and the wide range of uses proposed in this location and consider that it will not add to the amenities of the rural area.
- Concerns about the access and traffic congestion/hazard.
- Poor accessibility and not served by public transport. Residents and workers will be totally car dependent.

- There are no local shops or services in the area, which is not proximate to a village/town.
- Lack of social integration with the local community and destruction of prime agricultural land in this scenic location.
- There are several nursing homes in the general area and they question the need for another such facility.
- Alternative sites closer to public transport and amenities should have been considered.
- The proliferation of sewage treatment plants, especially the large one proposed here will possibly lead to pollution and be a health hazard in this un-serviced rural area.
- Impact of re-diverting the existing ditch on the site on surface water drainage and on the hydrology of the area. Concerns about flood risk.
- The applicant needs to prove that the existing water supply has the capacity to serve the development.
- Concerns about impact on Natura 2000 sites and on wildlife in the area. An AA of the proposal should be submitted.

4.0 Planning History

- 4.1. The Planner's Report notes that there is no recent planning history relative to the subject site. However, they note the following unrelated decisions in the immediate vicinity:

Reg.Ref. F16A/0302 Balheary Avenue, Swords – Permission granted subject to conditions for a part single, part two-storey dwelling house.

Reg.Ref. F15A/0526 - PL06F.246140- Balheary Shooting Club – Permission granted by the Council and upheld subject to conditions by the Board for berms to north, east and west, 3m. high straw bales at shooting stands. Retention of shooting stands, small bore shooting range, target areas, berms and all associated works.

Reg.Ref. F13A/0492 – Roganstown Golf and Country Club - Permission granted subject to conditions for the construction of 5no. detached dwellings and their

associated waste water treatment systems, percolation areas, landscaping and associated site development works on a site c.1.32ha.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

The subject site is to the north west of and outside the boundaries on Swords. It is in the rural area zoned 'RU' where the vision includes: - *Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage* – Chapter 11 Land Use Zoning Objectives refers and includes a Table regarding Use Classes Permitted in Principle or Not Permitted related to this 'RU' zoning objective.

Rural Fingal – Chapter 5

Objective RF62 seeks to ensure that the design of entrances and front boundary treatment is sensitive to the rural setting.

Objective RF63 seeks to ensure retention of hedgerows and other distinctive boundary treatment and to ensure replacement where removal is necessary.

Objective RF64 seeks to retain, adapt and re-use vernacular buildings where they contribute to the character of the rural area.

Objective RF65 seeks to encourage the sensitive restoration and/or conversion of vernacular rural buildings and discourage their demolition or replacement.

Objective RF66 refers to rural drainage i.e: *Ensure that the requirements set out for on-site treatment systems are strictly complied with, or with the requirements as may be amended by future national legislation, guidance, or Codes of Practice.*

Objective RF67 seeks to Implement the recommendations of the Ground Water Protection Scheme.

Objects RF68 and RF69 seek to support the rural transport initiative and the provision of an integrated rural community public transport services.

Section 5.3 seeks to promote the Rural Economy and Enterprise i.e. *Agriculture, horticulture, forestry, tourism, renewable energy production and rural resource based enterprise should be facilitated*. The Council recognises a balance between rural development, including diversification and protection of the rural environment, requires careful management. Objective RF85 seeks to: *Support and encourage the development and expansion of the equine industry in the County, including supporting equine related activities of an appropriate size and at suitable locations*.

Objective RF104 seeks to support the sensitive re-use and adaption of existing farm buildings for farm diversification and to site new buildings in or adjacent to the existing group of farm buildings.

Natural Heritage – Chapter 9

Objectives which seek to protect the environment, and include reference to ecology, protection of watercourses, and woodlands, trees and hedgerows include the following: NH23, NH24 and NH27.

Cultural Heritage -Chapter 10

This includes reference to Historic Building Stock and Vernacular Heritage.

Objective CH33 seeks to: *Promote the sympathetic maintenance, adaptation and re-use of the historic building stock and encourage the retention of the original fabric...*

Objectives CH37 - *Seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal...*

Objective CH38 - *Require that the size, scale, design, form, layout and materials of extensions to vernacular dwellings or conversions of historic outbuildings take direction from the historic building stock of Fingal and are in keeping and sympathetic with the existing structure.*

Development Management Standards – Chapter 12

This includes a Section that deals with Residential Care Homes, Retirement Homes, Nursing Homes, Retirement Villages and Sheltered Accommodation.

Objective DMS46 - *Require that residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation be located in towns and villages for reasons of sustainability, accessibility, social inclusion, and proximity to*

the availability of services, except where a demonstrated need to locate in a rural environment because of the nature of the care required can be clearly established.

It is of note that Objective PM48 – Placemaking – Chapter 3 has similar wording.

Objective DMS47 - *Require that applications for residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation consider and demonstrate the following:*

- *The potential impact on residential amenities of adjoining properties.*
- *Adequate provision of open space.*
- *Provision of adequate parking facilities.*
- *The design and proposed materials.*
- *The size and scale of the proposal must be appropriate to the area.*
- *A location within close proximity of high quality public transport links and the site should be well served by good footpath links.*

Objective DMS126 - *Restrict unnecessary new accesses directly off Regional Roads. Ensure premature obsolescence of all county/local roads does not occur by avoiding excessive levels of individual entrances. Ensure that necessary new entrances are designed in accordance with DMRB or DMURS as appropriate, thereby avoiding the creation of traffic hazards.*

Objective DMS129 - *Promote road safety measures in conjunction with the relevant stakeholders and avoid the creation of traffic hazards.*

Table 12.8 refers to carparking standards and Table 12.9 to bicycle parking standards.

Regard is also had in this Chapter to Water Services. A key objective is to ensure development is carried out in a sustainable manner. Issues to be considered include:

Water Supply, Drainage, Water Conservation, Surface Water and Flooding, Water Quality.

Objective DMS138 -Renewable Energy

Objective DMS168 recommends: *Works to the historic building stock include an assessment of the presence of bats in any such sites or structures and, where*

appropriate, ensure that suitable avoidance and/ or mitigation measures are proposed to protect bats in consultation with the National Parks and Wildlife Service.

Appendix 4 containing the Technical Guidance Notes defines a Residential Care Home/Retirement Home as:

A building or land for the provision of accommodation for people in need of care by reason of age, disability or past or present drug or alcohol abuse. Generally, a retirement home is a multi-residence housing facility for older persons with varying levels of associated facilities.

Section 6.0 of the Planning Report submitted has regard to Planning Policy Context. (Fig.11 relates).

5.2. National Inventory of Architectural Heritage

While not a protected structure, Skidoo House is listed on the National Inventory of Architectural Heritage as a structure of regional architectural importance. Ref. 113270004 Skidoo House and Stud Farm.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. McGill Planning have submitted a First Party Appeal on behalf of Remedy Care Limited. Their grounds of appeal include the following:

- They consider that if the Authority considered that the applicant still had a case to answer to in relation to compliance with the zoning objective, then this should have been raised at F.I stage.
- They strongly disagree with the reasons for refusals on material contravention grounds. They submit that the development by reason of its bespoke design and specific service provision has a demonstrable need to locate at this rural setting and that this necessity is clearly demonstrated in the application.
- The proposed development does not materially contravene the 'RU' zoning objective or Objective DMS46 of the FCDP 2017-2023.

- While agricultural use is the primary activity envisaged in rural Fingal it is not the only use permitted. Other commercial activities once appropriately designed and located can be considered where they help achieve the broad objective of the zoning.
- The proposed development at Skidoo has been carefully sited and designed to respect the integrity of the rural landscape.
- Overall the proposed development will enhance the rural value of Skidoo and will protect the natural and built heritage of the lands.
- They provide details relative to the need to locate the specialist elderly care facility at Skidoo. This includes regard to census of population figures in relation to the aging population of Fingal.
- The inclusion of biophilic principles into the design and layout of the proposed development is elaborated in greater detail in the Design Statement prepared by the scheme architects.
- This proposal is borne out of a strong evidence/research base using practice examples from Europe as a benchmark for excellence in dementia and end-of-life care for the elderly.
- Objectives DMS46 and PM48 of the Plan state that urban locations are preferred unless there is a need to locate in a rural environment because of the nature of the care required is clearly established.
- A busier urban setting may be appropriate for independent, health elderly clients but not in the case of sick elderly patients requiring end of life care, such as will be provided in this facility.
- The quiet peaceful, rural setting at Skidoo, with low background noise and light pollution achieves the fundamentals for developing the biophilic design.
- Skidoo represents one such exclusive rural location and the proposed care facility is therefore considered a permissible use under the RU zoning.
- Details are provided relative to the benefits of locating in a rural environment for dementia patients. A peaceful rural setting is wholly required having regard

to the type of care being provided, particularly patients requiring end-of-life/palliative care and family and friends.

- Details are provided of the cultural heritage benefits of converting Skidoo House. This proposal involves the active re-use of a historic, vacant property.
- The size, nature and setting of the subject site at Skidoo House is very hard to find in an urban location. Multiple sites across the Dublin Area were explored and the subject site was chosen for several reasons which are stated.
- The proposal is fully compliant with Objective DMS47 of the Fingal DP and the criteria therein. Details are provided relative to the design and layout in this regard.
- Given the nature of care being provided to the highly dependent clients with Dementia/Alzheimer's etc access to services and public transport is not required.
- They have regard to Objective PM49 and consider that the proposed development will not detract from its rural location or the character of the area.
- They refer to Figure 4 and note that the design of the new wing is intrinsically linked to Skidoo House and outbuildings including the stables and stone barn.
- The design of the subject proposal is inherently rural compared to the urban examples of nursing homes – Figs.6 & 7 of their appeal statement refers.
- Having regard to infrastructure they refer to their F.I response and note that the Water Services and Environment Departments confirmed that the proposal would be acceptable subject to conditions.
- They consider that the conclusion of the PA relative to lack of connection to public services to be unreasonable.
- They note that there are other 'commercial' uses which are permitted in principle on 'RU' zoned lands but which wouldn't typically be expected or able to provide connection to public services.
- In terms of sustainability and efficiency, they emphasise that the site is not strictly greenfield, rather it makes use of an existing yet vacant house, and farm complex. They consider that the proposal complies with Objectives RF64

and RF65 relative to refurbishment and renovation of vernacular rural buildings.

- They note that the Transportation Department concluded no objection to the proposed development as modified at the F.I. response stage including provision of a new vehicular entrance as modified, to replace the existing entrance, which has poor sightlines, but which will be retained as a cyclist/pedestrian access.
- They consider conservation concerns relative to the existing historic entrance (Figs. 8-10 refer) have been addressed and refer to the report by the Conservation Architect.
- Concerns in relation to tree removal along the site boundary have been examined in greater detail as part of this appeal and they refer to landscape details and drawings submitted.
- They have regard to S39(2) of the Planning and Development Act 2000 (as amended) and provide that the Board has the discretion to condition the specific use of the residential care facility to ensure that it is operated for that use, and not as a standard nursing home or car facility.
- The applicant is also willing to enter into a Section 47 agreement with the PA if deemed necessary.
- Details have been submitted from the Medical Advisor and Associate Medical Director – Dr. Tom O’Callaghan in support of this application.
- They ask the Board to overturn the Council’s refusal and consider that given the specialist nature of the proposed development that it complies with the ‘RU’ zoning objective and is acceptable in terms of infrastructure and complies with Development Plan standards and the proper planning and sustainable development of the area.

6.2. Planning Authority Response

- 6.2.1. They ask the Board to have regard to the Planner’s Reports prepared in relation to this application dated 29th of May 2017 and the 27th of September 2017. They

provide that in the event the appeal is successful, provision should be made in the determination for applying financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

7.0 Assessment

7.1. Principle of the Development and Planning Policy

- 7.1.1. The application site is within the rural area and is zoned 'RU' in the Fingal County Development Plan 2017-2023. As shown on the Development Plan mapping it is outside, not far from the north western boundaries of the development boundary of Swords. It is c.3kms to the south of Ballyboghil which is one of the Key Villages considered as 'local service centres' providing a key local role for services for people who live in the village, or in the surrounding countryside in the Plan. It is also not within a Rural Cluster as defined by the Plan. The 'RU' Objective seeks to: *Protect and promote in a balanced way the development of agriculture and rural related enterprise, biodiversity, the rural landscape and the built and cultural heritage.*
- 7.1.2. The land zoning permits in principle a variety of agricultural and other uses deemed to be more compatible with rural land uses. The Use Classes Related to Zoning Objective does not include facilities for the elderly within the 'permitted in principle' category. While not specifically referring to nursing home or the type of facility for care of the elderly proposed in this application, it includes 'Health Centre', 'Sheltered Accommodation', 'Retirement Village' in the 'not permitted' category. There is a Note at the end of the table which provides: *Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.*
- 7.1.3. There is concern that the concept of locating an elderly care facility on this site which is in the countryside and outside of an urban area would be materially contrary to the objectives of the Rural 'RU' land use zoning Fingal County Development Plan. Also that it would materially contravene Objective DMS46 relative to the requirement to locate residential care homes and nursing homes etc. in towns and villages for

reasons of proximity to services, accessibility etc. and be contrary to the proper planning and sustainable development of this rural area.

7.1.4. The First Party contends that the proposed development is to be an inclusive one for a specialist residential care facility, is an appropriate use under the 'RU' land use zoning and provide that they have demonstrated need to be located in the Skidoo property given the nature of the care to be provided and the explicit bespoke design and locational requirements involved. Also that the proposal further accords with the 'RU' zoning objective in that the natural and cultural resources of this rural location are protected, utilised and enhanced within the particular design employed. They provide that it has been demonstrated that the proposed development is acceptable in terms of compliance with Objective DMS46 and the Development Plan standards in relation to access and infrastructure.

7.1.5. Therefore, consideration must be had relative to the impact of the project as a whole and to the sustainability of siting this proposal in an un-serviced rural area and where access to public transport is not proximate to the site. These issues including regard to the design and layout, re-use of existing buildings, access and pwwts, impact on the character and amenities of the area and material contravention, ecology and screening for AA are discussed further in the context of the assessment below.

7.2. Regard to Proposed Use - Biophilic Design Strategy

7.2.1. The First Party submits that the rationale for the subject proposal derives from the proposed humanistic model of care that benefits from a natural/rural setting. This is also presented in the Architectural Design Statement relative to the design and layout and the need for a development that is well connected and integrated with its built and natural surroundings, which has been designed to be attractive and safe for residents. They submit the Skidoo proposal presents a new model of elderly and specialist care in the country, utilising the tranquil, rural setting, its natural features and incorporating biophilic design to achieve a setting intrinsic to the treatment and recovery of its clients. They have regard to CDP policy and objectives relative to the need to provide various types of residential typologies for the elderly. They provide the design and layout including the care and management of the proposal is unique and does not fall within the traditional model of elderly health care.

- 7.2.2. Details submitted with the Appeal provide that Remedy Care Homes focus on the holistic care principles, specifically centred on promoting physical and mental health and wellbeing and are introducing a new and extremely high standard in the care sector in Fingal. The unique offering at Skidoo is for a very particular care demand i.e. end of life care and in the dementia spectrum. The bespoke care home design proposes to integrate the structure with its natural surroundings and have the residents, visitors and staff benefit from the natural setting. Biophilic design strategies can increase and improve productivity and care, staff wellbeing, and strengthen the social fabric of care communities. They provide that these benefits cannot be achieved or offered in the same way in an urban or suburban setting which does not have the natural features and qualities needed to provide the type of care setting needed.
- 7.2.3. They consider that the setting of Skidoo House and outbuildings within the proposal create a unique sense of place and character that is impossible to fabricate on an urban site. By integrating the natural/rural environment with the internal operations of the care facility through design, well-being and quality of life is enhanced. The proposal will provide additional beds and cater not only to the needs of local residents but also to the wider community of Fingal and Meath. Details are given in the Planning Report of existing facilities in the area. This application details the bespoke and unique type of specialist care facility for a very vulnerable sector of the elderly demographic.
- 7.2.4. They provide that the proposal combines the rural setting of Skidoo with the specific requirements of elderly Residential care to provide a high-quality respite care facility, in a pleasant and caring environment for residents and their families and staff. In view of the specialist nature and needs of the development that it is unique and appropriate to its rural setting and will not set a precedent for elsewhere. I would consider, however that while the proposed facility maybe relatively unique, and the concept is to be supported that it could also be considered that its sustainability would be an issue and that it would set a precedent for the location of more generic nursing home facilities outside of the urban area.

7.3. Design and Layout

7.3.1. This site currently comprises Skidoo House, associated stables, agricultural barn and agricultural fields used for grazing. The uses, including the existing house and stables are no longer in use and are now all vacant, apart from a small number of horses in the stables. The proposed development consists of the construction of a purpose built respite care facility, hard landscaping and provision of car parking. It also includes the refurbishment of Skidoo House, and a number of buildings on site as well as the demolition of a barn and two former stable buildings. The Planning Report submitted provides details of the overall scheme, which is broken into component parts thus reducing the scale and massing of the proposal. Figure 18 of the Planning Report shows colour coded the buildings to be retained located to the north east for agricultural use (these are shown outside of the site boundary), those to be retained within the site and those to be demolished.

Impact on Skidoo House and Outbuildings

7.3.2. An Architectural Heritage Impact Assessment has been submitted with the application to provide details of the existing building and to consider the impact of the proposed development on Skidoo House and associated buildings. This proposal includes the re-use and restoration of Skidoo House (originally pre 1840 but altered and extended c.1930) which is not listed as a protected structure nor is it located within an Architectural Conservation Area. It is however, included on the NIAH and a description is provided having regard to the 'Detached three-bay two-storey house, c.1930.' The building and stable complex to the rear are given a Regional rating by the NIAH and are considered to be of architectural significance. The house and early 19th century slate-roofed coursed rubble stone farm buildings are of moderate significance. A description and photographs are included in the Report showing the interior and exterior of the existing house, annex, stables and courtyard. While not protected, the house retains many fine features, including stained glass bay windows, parquet floors and timber staircases.

7.3.3. Skidoo House, which is now vacant, is internally in poor condition and it is to be renovated and converted into short stay accommodation for residents' relatives/visitors. It is to comprise 9no. self-contained bedrooms, en-suite/bathrooms, living and dining facilities, meeting rooms and a contemplation room. The

Architectural Assessment provides details of the proposed uses and provides that very little structural alterations are proposed. The existing single storey extension is to be used as a chapel/oratory, retaining the open plan nature of the space.

- 7.3.4. It is noted that the proposed development is to be located to the rear of the house and as shown on the plans the landscaped garden and tree lined avenue to the south, which is important to the setting of Skidoo House are to be retained. It is important the garden and the tree lined avenues in the site be retained so that its visual impact on the setting and historic approach to the house, which is from the south would be minimal.
- 7.3.5. The eastern stable wing and stone barn has been vacant for some time. It is proposed to retain the east range of stable buildings to house craft/pottery sheds/workshops and creative activity spaces. It is proposed to demolish the north and west ranges of 1930's stable buildings which the Architectural Assessment provides are not in themselves of any architectural or historic merit. The total floor area of buildings to be demolished is 966sq.m.
- 7.3.6. Two older farm sheds built of stone and with slate roofs are located to the east of Skidoo House. It is also proposed to retain the existing early 19th century stone shed/barn to the north east of the house to house administration, staff canteen, meeting rooms. The total floor area of buildings to be retained is given as 1,365sq.m in the Schedule of Floor Areas. In response to the Council's F.I request it is noted that the stone barn is to be used as ancillary office/administration use and not a telemedicine use as previously proposed. Also that no physical (internal/external) changes are proposed to the barn as a result.
- 7.3.7. The mid-20th century stable yard to the rear of the house is not regarded as having particular architectural or historical significance. Therefore, architecturally, aside from the removal of the existing courtyard/stable feature, there is no objection to the demolition of the two existing single storey stable blocks or the more modern agricultural shed to the south west. It is considered that the proposed development will not impact adversely on the group of historic buildings to be retained and re-used in the context of the holistic approach to the development. The renovation and re-use of the house and outbuildings is considered to be beneficial and to be an appropriate and sustainable measure that will physically and visually enhance the character of

the site and the new proposal. In general, it is proposed to retain the original fabric of the structure in accordance with Objectives CH33, CH37 and CH38 of the Fingal CDP.

New Build

- 7.3.8. The proposed new build comprises the provision of 120-bedroom Humanistic Respite Care Facility within 2 blocks of 1-2 storeys and comprising a reception building connecting to the main accommodation building. This is a purpose built building and is to include a range of ancillary resident and staff facilities, including café, shop, recreation/dining areas, administration/consultation rooms, offices, storage, plant, kitchen and laundry rooms, and a south west facing roof garden. A Schedule of floor areas has been submitted with the planning application, showing the proposed new build within the facility occupying a g.f.a of 7,209sq.m. The total floor area for the proposed development including those to be retained i.e Skidoo House and outbuildings is 8,622sq.m.
- 7.3.9. The details of the of the various components of the proposed new development are discussed in the documentation and shown on the plans submitted. Regard is also had to the Architectural Design Statement submitted which provides details of the design and layout. Appendix (d) of the Architectural Design Statement includes CGIs Views showing the proposed integration of the new with the existing buildings to be retained. Architectural Visualisations have also been submitted, showing the scale of the proposed nursing home relative to the existing buildings and the incorporation of the internal water feature.
- 7.3.10. The proposed development is to be located to the north and west of the historic group of buildings and the proposed low-rise development will, largely be hidden behind the two storey house and its west extension. The single storey reception building is to be connected to the two storey main accommodation building. The courtyard space to the west of the eastern stable wing is to visually and physically connect the residential care facility with Skidoo House (respite/relative accommodation).
- 7.3.11. The proposed design varies from the traditional nursing home design in that there are multiple lounge and activity/recreation areas with ancillary spaces providing communal functions such community areas, café and shop. Bedrooms at first floor

level will have views of the surrounding landscape. It is provided that given the size of the site, the proposed development is unconfined and can provide generously sized rooms, circulation areas, living and communal area that exceed required HIQA standards. It is of note that compliance with the HIQA Standards, are considered under separate remit. The proposal has been designed to a building height of 1-2 storeys in keeping with the built environment and that of the surrounding rural area. The proposed external finishes comprise natural stone, coloured render, extensive use of glass and zinc/metal/timber finishes. It is noted that Architectural Visualisations accompany this application which show the grouped form and integration of the proposed and existing buildings. Given the generous size of the site, ample provision for open space, landscaped gardens and natural amenity features including service/car parking will be provided on site. I would consider that provided quality external finishes are used, the overall design of the proposed facility would visually be acceptable on this site.

7.4. Landscaping

- 7.4.1. It is provided that utilising and enhancing the existing rural setting through innovative landscape design will include the adoption of Biophilic design principles and enhancing the sylvan setting by creating a parkland area, re-routing the existing stream on site and providing sensory gardens. The single and two storey nature of the subject proposal, the use of stone and the provision of green roofs, terraces, formal and informal gardens and the use of existing site features (ditch, trees etc) will visually integrate with the natural surroundings.
- 7.4.2. The proposed layout incorporates landscaped open spaces including formal, sensory and vegetable gardens and a roof garden that create visual interest in conjunction with the low-lying rural landscape of the surrounding area. Integrated private open spaces are to be provided throughout the scheme, ensuring that all public open space is overlooked and secured by design. The existing waterway is to be diverted. and a pool and waterfall weir created. Landscaped open space including formal and informal gardens, courtyards and water features account for 1.94ha of the site. The grassed field to the west of the facility accounts for 5.50ha of the site which is considered to exceed standards.

- 7.4.3. A double hedgerow and treeline forms the boundary to the disused drive leading to Skidoo House from the south. The driveway leading east from the R108 is also tree lined. There is also trees and landscaping in the vicinity of Skidoo House and garden to the front of the property. The construction phase of the proposed development will include the direct loss of approximately 50m of treeline to the west of Skidoo House to facilitate the construction of the proposed holistic and respite care facility and the landscaping of the existing drain. It is provided that the section of treeline to be removed within the subject lands is to be replaced with a newly planted treeline of native species along the western and southern boundary of the proposed development. It is considered that it is important to implement the landscaping scheme and that as much as possible of the existing landscaping which adds to the character of the site and setting of Skidoo House be retained and augmented. If the Board decide to permit it is recommended that it should be conditioned.
- 7.4.4. The First Party note that concerns in relation to tree removal along the site boundary have been examined as part of this appeal. Regard is had to the revised drawings prepared by Ronan MacDiarmada Landscape Architects, which illustrate the site boundary trees and hedgerows to be removed to facilitate the new entrance. While it is provided that none of these are of any great arboricultural significance, it must be considered as to whether this is of merit, taking into consideration CDP Objectives to retain roadside trees and hedgerows. The First Party provides that the new boundary proposals will include for significant additional planting and replacement trees as outlined in the landscape proposals submitted.

7.5. Access and Transport issues

- 7.5.1. Access is from the R108 Regional Road and the road network surrounding the proposed Elderly Care Facility site is subject to a speed limit of 80kph. I noted during the site visit that this and the adjacent regional road network is fast, busy and heavily trafficked, including with trucks. There is concern that the proposal will increase traffic generation and congestion on the rural road network. Also that the existing site access, which has inadequate sightlines, is insufficient to cater for the development and there are concerns about traffic hazard.
- 7.5.2. A Transport Statement was submitted with the application to quantify the existing transport environment and to identify the potential level of transport impact

generated as a result of the proposal. Section 5 of the Transport Statement refers to Trip Generation and provides details of TRICS generation data. It is provided that the subject facility will result in a slight increase in vehicle flows across the local road network during the morning and evening peak hour periods, with the largest number of vehicles being generated arising in the afternoon when the local road network experiences significantly lower traffic volumes. It is concluded that there will be no material deterioration in road conditions as a result of the proposal and that there are no significant traffic or transportation related reasons that should prevent the granting of planning permission for the proposed development.

- 7.5.3. Originally it was proposed that the existing vehicular access onto the R108 would be used as the primary entrance to the care facility. The entrance and avenue leading to Skidoo House, although not now in regular active use contributes to the historic and visual importance of the house and should be retained. However, having visited the site, it would appear that sightlines at the existing entrance are inadequate. There are trees and hedgerows along the road frontage boundary which restrict visibility and will need to be removed to facilitate sightlines. The alignment of the road also restricts visibility particularly the bend to the south.
- 7.5.4. Clarification relative to this access issue was requested at F.I stage and revised drawings were submitted showing revised entrance layout and sightlines. The response from DBFL Consulting Engineers also noted that a topographical survey was carried out to determine the existing vertical profile of the R108. As shown on the revised drawings the site entrance has been revised and re-located to accommodate sufficient sightlines at the entrance. A new main site entrance from the R108 has been created c.25m to the south of the existing access, which is to be made redundant (to be fitted with removable bollards) except for cyclists and pedestrians. The new entrance with 3m set-back provides improved sightlines of 160m. The drawings demonstrate that sightlines will not be obstructed by the vertical profile/incline of the Naul Road.
- 7.5.5. It is considered that visibility from the proposed new access will be an improvement and a necessity to facilitate the subject proposal. However, it will serve to create a new entrance onto the Regional Road, Objective DMS126 of the Fingal CDP refers. Also it is noted that the relocation of the entrance would have an impact on the existing boundary as it would need to be removed and setback and the comments of

the Transportation Planning Section are noted relative to obstructions by poles and trees. In this respect Objective RF63 relative to the retention of trees and hedgerows in rural areas is also of note.

- 7.5.6. The F.I also notes that the southern entrance onto the local road to the south will not be used as a primary entrance to the residential care facility. Instead, the entrance and avenue will be used for maintenance access and will be controlled by removable bollards/intercom system. At present vehicular access to this access is restricted by stone bollards.
- 7.5.7. Objective DM113 seeks to limit the number of on-site parking spaces for new developments in accordance with Table 12.8 of the Fingal CDP. This provides 1 per 4 beds i.e 30 spaces. Table 4.1 of the Transport Statement refers to parking and provides that 63 no. spaces are to be provided, 12 cycle spaces are to be provided in accordance with standards in Table 12.9. The Council's Transportation Section sought justification for providing car parking spaces in excess of DP Management Standards. In response the F.I submitted notes that the number of car parking spaces to be provided on site has been reduced from 63 to 43 (including 4 disabled spaces). 32 are now to be provided in the main car park and 11 are to be provided to the east of the site at Skidoo House. The Council's Transportation Planning Section provides that this level of parking would be acceptable given the site's rural location.
- 7.5.8. Regard is also had to issues including access, pedestrian, cyclist and public transport connections. The revised landscape drawings submitted, include a proposed internal vehicular bridge within the site to serve the intersection of the proposed access with the existing as part of the internal road network within the site. While internally there is to be accessibility for pedestrians and cyclists, it must be noted that there are no public transport or cycle routes that serve the vicinity of the site. There are no footpaths or street lighting in this rural area. Regard is had to bus routes along the R125 and Rolestown c.1.5km to the south. Donabate Railway Station is c.8kms away. It is provided that visitors to the facility will have access to the landscaped gardens, short stay parking and will benefit from the provision of shuttle buses including transfer to local amenities and Dublin Airport, when required. In this respect it is not considered that the proposal in this rural area would comply with Objective DMS47 i.e: *A location within close proximity of high quality public transport links and the site should be well served by good footpath links.*

7.6. Drainage issues

- 7.6.1. The application provides that an on-site wastewater treatment system with polishing filter designed to current standards will be provided on site and can be readily accommodated on this large site of 8.86ha. The Engineering Report submitted provides information on the calculations, estimates and assumptions used to design the foul sewers, surface water sewers, surface water attenuation systems, watermains and road access for the proposed development. This notes that there is an existing private foul sewer network serving Skidoo House on the site. As there is no public foul sewer, the private foul sewer is discharged to groundwater via a percolation area.
- 7.6.2. Foul effluent from the proposed development is to be treated on site and treated foul water to be discharged to the local surface water catchment. It is proposed to convey foul sewage from the site by gravity to a 'Biocycle' Wastewater Treatment System and tertiary polishing filter with disposal of treated wastewater to groundwater and details of this including discharge rates are given. Initially there were concerns that the polishing filter and Biocycle system was to be located towards the south west outside the application site but within the applicant's landownership. The DBFL Consulting Engineers response submitted at F.I stage clarified that the polishing filter is to be located within the 8.86ha application boundary and not outside the application boundary as referred to in the Engineering Services Report. Discrepancies within the Engineering Services Report and appendices concerning the area of the polishing filter are also addressed and calculations for the polishing filter are given. They provide that the polishing filter is sufficient scaled to accommodate the development. Also that all residents, staff and visitors are accounted for within the foul discharge calculations and details are given. They confirm that the polishing filter and foul sewer network has been designed and sized correctly and does not pose a risk to public health to the surrounding environment and has been carried out in accordance with the EPA Code of Practice.
- 7.6.3. It is proposed to use the SuDS approach to surface water management within the development. A number of SuDS features have been incorporated including swales (wet and dry), filter drain, green roofs and permeable surfacing. It is also proposed to incorporate a petrol interceptor. The Surface water drainage drawings show that

surface water storage is to be located to the south of the proposed new build. Surface waters from the proposed development is to be diverted to a newly created soakaway area to be located within the site. The water will drain from here to the local drainage network. It is provided that these measures are in line with SuDS as outlined in the recommendations of the GDSDS.

7.6.4. In response to the Council's Water Services' Section concerns about discharge rates as presented in the Engineering Report, the DBFL Consulting Engineers Report note that the total site area as submitted is 8.86ha of which 2.68ha is considered for drainage purposes. The remaining area of the site will not be positively drained to the proposed drainage system and will be undeveloped, and therefore is not considered part of the drainage calculations. They provide that the effective surface water catchment area used to calculate the volume of attenuation for the development is 1.42ha and based on various run-off rates being applied to each of the surfaces/roofs within the 2.68ha drainage catchment and details are given of this. Calculations of effective surface water catchment area and attenuation volumes are shown in Appendix C of the Engineering Services Report. DBFL confirm that all surface water drainage is to be in compliance with the GDA Regional Code of Practice for Drainage Works Version 6.0.

7.6.5. The Engineering Services Report notes that there is an existing land drainage ditch which runs through the centre of the site from the north-west to the south-east which discharges to the Broadmeadow river to the south. Towards the north of the site the ditch is culverted for 20m in a 500m pipe and it returns to a ditch thereafter. The existing stream on site will be retained and provide natural sustainable drainage measures on site. It is provided that this will be re-routed to connect again with the existing ditch. A landscaped stream will be utilised as part of the necessary SuDS requirements on site but also as an important biodiversity/amenity feature. The F.I submitted notes that the watercourse referred to is a land drain and is not considered a watercourse. This refers to the revised drawing for land drain diversion extents, levels and typical cross section. Reference is also made to the Landscaping Architects drawings for cross sections and to Appendix H of the Engineering Services Report for land drain calculations. It is also noted that all re-routing works to the drainage ditch are to be confined to lands located within the subject site. A

letter of consent from the relevant landowner has been included and they provide that consent from third parties is not required.

- 7.6.6. It is also noted that a Report for Sampling & Analysis carried out for the Skidoo site has been submitted. This has regard to the 'Surface Water Regulations 2009', and provides that overall this stream would be regarded as having a poor water quality status. Also that it is expected that these elevated levels are due to the land being used for agricultural use. The F.I expects that the removal of cattle from the field to the south west of the site and the use as a meadow field if permission is granted will significantly reduce the associated pollutants from cattle currently recorded on this site. It is also proposed to introduce a reed bed system into the water feature running through the proposed residential facility to help to naturally purify contaminated water as well as contributing to biodiversity of the site.
- 7.6.7. It is provided that the proposal will connect to the existing public water supply in the area and it is noted that there is an existing watermain along the R108. Details are given of the total water demand for the proposed development per day and it is provided that the supply arrangements will be carried out to the requirements of Irish Water. The latter do not object subject to recommended conditions. It is also of note that the Council's Water Services does not object subject to the revised information submitted at F.I stage, subject to recommended conditions.
- 7.6.8. It is considered that the revisions made to the proposed treatment/drainage system are acceptable, and provided there is compliance with current standards and regulations (enforcement of such is not within the remit of the Board) will not be prejudicial to public health. It is noted that this issue was not included in the Council's reasons for refusal. However, the differences between the existing smaller scale development and that proposed must be considered, as to whether this larger scale of development with its own private pwwts is appropriate to what is now an un-serviced site in the rural area. While not proximate to other commercial developments it is considered that the issue of proliferation of pwwts in the rural area had not been addressed.

7.7. Flooding issues

- 7.7.1. A Site Specific Flood Risk Assessment has been prepared by DBFL Consulting Engineers. This report seeks to assess the site and development proposals in accordance with the requirements of *The Planning System and Flood Risk Management Guidelines for Planning Authorities*. The residential development is classified as 'highly vulnerable development' according to Table 3.1 of the Guidelines. Table 3.2 of the Guidelines indicates that this type of development is appropriate and compatible with flood Zone C. The FRA provides that it is clear from the flooding analysis that the proposed site is not at risk from tidal, fluvial or groundwater flooding due to its geographic location and topography. Regard is had to the Source-Pathway-Receptor Model which notes that there is a moderate risk of pluvial flooding on the site from the potential surcharging and blockage of the new drainage network and also a risk of fluvial flooding from the existing ditch to be diverted. Consequentially the initial flood risk assessment provides further detail on the causes, effect and possible mitigation measures for the both types of flooding identified. This notes that the future drainage network needs to be designed in accordance with the regulations e.g. GDSDS and to take account of flood exceedance e.g. for storm return periods over 1%AEP. It is provided that the proposed drainage system for the development has been designed fully in accordance with current requirements of the GDSDS. Also that proper operation and maintenance of the drainage system should also be implemented to reduce the risk of human or mechanical error causing pluvial risk from blockages etc. The FRA provides that the existing ditch running through the centre of the site will be diverted as part of these works, where the diverted ditch capacity exceeds the capacity of the existing ditch. As there is no historical evidence of flooding from the existing ditch, there is no perceived increase as a result of the diversion.
- 7.7.2. Section 5.0 has regard to Detailed FRA Stage and to the proposed drainage network, surface water management including SuDS and attenuation and storage, Flood Exceedance rates etc. Mitigation measures are proposed including relative to FFL's, maintenance of the drainage system, flood routing for overland flows to ensure that boundary drainage ditches should not be blocked.

7.7.3. Following the FRA stages, it was determined that the site is within Flood Zone C as defined by the Guidelines and based on CFRAM MAPPING. In conclusion they confirm that the proposed development is appropriate for the site's flood zone category, the Planning System and Flood Risk Management Guidelines Sequential approach is met and the 'Avoid' principal achieved and the proposed development has an adequate level of flood protection up to the 100year return event. For pluvial floods exceeding the 100year capacity of the developments drainage system then the proposed flood mitigation measures are recommended. The F.I submitted reiterates this and provides that the SSFRA demonstrates that the use is located in flood zone C and is therefore appropriate and compatible with this flood zone.

7.8. Impact on the Character and Amenities of the area

- 7.8.1. The site is in a low-lying landscape character area, of modest landscape value and low landscape sensitivity. There are no protected views on or near the site. The site is surrounded by agricultural fields. The nearest dwelling is c.230m distant to the south of the site, visually resulting in no potential impact on the residential amenities of adjoining properties. It is provided that the remainder of the site will continue as a working farm, which is appropriate to this rural area. Swords Open Golf Course is located further south of the site.
- 7.8.2. It is provided that the historic approach to Skidoo House will be retained and the existing and proposed entrances off the Naul Road are not part of the historic setting of the house. However as has been noted above the proposed new entrance will necessitate removal of roadside boundary trees to achieve sightlines. It is considered that visually the proposed low profile of the new build development which is to be well set back from the road within the landscape would be acceptable and will not impact adversely on the character of the area or the setting of Skidoo House.
- 7.8.3. The Skidoo property is extensive and in view of the proposed setback and orientation can readily accommodate the proposed care facility with little or no visual amenity impact on the wider rural catchment. Given the location of the proposal set in from the Naul Road (R108) to the west and local road to the south, combined with the low scale design of the new buildings and choice of materials used in the building's façade, the character of the site will not be negatively impacted. This is provided landscaping is retained and augmented including trees along the avenue

from the existing main access from the R108 and along the avenue from the southern entrance. In view of the proposed new access regard is also needed to boundary treatment along the R108.

7.9. Material Contravention

7.9.1. As noted above permission for this proposal has been refused by the Council for 3no. reasons. These include that the proposal would materially contravene the Rural 'RU' zoning objective. Objective DMS46 is also referred to in this respect. The First Party contend that the proposed development does not materially contravene the 'RU' zoning objective or Objective DMS46 and they note the Board has the authority to overrule the Planning Authority (S37(2) of the Planning and Development Act 2000 as amended) where it considers that the development is not a material contravention. They consider that the proposed development does accord with the 'RU' zoning which they provide permits 'Residential Care Homes' with a demonstrated need to locate in a rural environment because of the nature of the care required; and also Objective DMS46 (and Objective PM48) of the DP which allows for this type of specialist care facility to be located in a rural setting. Regard is had specifically to the issue of material contravention of Objectives 'RU' and 'DMS46'.

Section 34(6) of the Planning and Development Act 2000 sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.

7.9.2. In this instance the proposed development is clearly not of strategic or national importance, there is no policy or guidelines advising that such a development should be permitted in this rural area. Objectives DMS46 and PM48 state that urban locations are preferred unless there is a demonstrated need to locate in the rural environment and this has been clearly established. The First Party has made a case

for this relative to the distinctive nature of the proposed development. Having regard to the need for accessibility and proximity to local services they provide that this is not applicable in this case due to their life limiting illnesses and advanced medical requirements. Unlike standard nursing/care homes for the elderly whereby patient's clients are generally mobile and in need of limited but long term assistance, patients at the proposed facility will be highly dependent/or immobile or entering their final stage in life. They provide that the quiet, peaceful, rural setting at Skidoo, with low background noise (on the site visit I noted that the site is in relative proximity to Dublin airport) and light pollution achieves the fundamentals for developing a biophilic design.

7.9.3. Also, that the proposal will benefit the local economy and can draw on the local population for employees in nearby Oldtown, Ballyboughal and Rolestown. However, having regard to the information submitted, I am not convinced that it would not be better facilitated within the development boundaries of an urban area. In view of the lack of accessibility relative to public transport and local services, it is considered that there will be issues for staff/visitors relative to accessibility to the care facility, which will be largely car orientated and as such would be contrary to Objective DMS47.

7.9.4. While it is accepted that the proposal at Skidoo is a concept of some merit and has been carefully sited and designed to respect the integrity of the rural landscape, the issue is whether this is considered to be an appropriate location having regard to the 'RU' zoning and Objective DMS46. Having viewed the context of the site, and read the documentation submitted, and had consideration of the issues raised and noted in this Assessment, I would consider that the proposal would not comply with and would be in material contravention of these Objectives.

7.10. **Ecological issues**

7.10.1. An Ecological Impact Assessment has been prepared by Scott Cawley Ltd. This notes that the subject lands contain numerous buildings of age, structure and material that makes them suitable for roosting bats. The buildings are connected to the surrounding landscape by hedgerows and treelines, although there is no substantial area of woodland within the vicinity of the subject lands. The area may be within a core sustenance zone for bats. All bats and their roosts are protected under

the Wildlife Acts under the Habitats Directive. Section 3.0 of the Assessment has regard to Planning, Policy and Legislation. Regard is also had to Objective DMS168 of the Fingal CDP which is relevant to the protection of bats.

- 7.10.2. Terrestrial mammals including badger, otter, stoat, fox, rabbit, hedgehog and pygmy shrew may occur within the subject lands given the range of habitats present. Otter were recorded closed to the Broadmeadow River, rather than on the subject site. A detailed description and analysis is given of the site, having regard to the impact on existing buildings and habitats on site. These include improved agricultural grassland, dry calcareous and neutral grassland, scattered trees and parkland, drainage ditches and hedgerows and treelines. A detailed description is given of flora and fauna on the site in Section 5.5. It is provided that while there may be temporary displacement, the proposed development would not result in a significant loss of habitat and is unlikely to have a significant effect on these terrestrial species.
- 7.10.3. Reintroduction programmes for grey partridge and red kite have occurred within North Dublin in the recent past. There are also records of barn owl in the vicinity and habitats onsite and in the surroundings are considered suitable for these species as well as a range of breeding bird species. The subject lands contain a mosaic of arable and pasture lands interspersed with hedgerows and treelines. Regard is also had to the suitability of the habitats for reptiles and amphibians such as frogs and lizards and aquatic species. The proposed development has the potential to result in the loss of breeding bird habitat and there is potential to impact on the red kite. Habitats have been included in Key Ecological Receptors (KERs) because the subject lands contain hedgerow and treeline habitats that connect the site with the surrounding environment.
- 7.10.4. Regard is also had to any potential impact on Designated Sites including Natura 2000 sites (Fig.2 relates) and this is discussed further in the context of the Screening for AA below. Table 2 in Section 5.0 summarises all ecological features identified as KERs based on the completion of desk study and field survey of the subject lands. The proposed development lies upstream of European Sites and Nationally Designated sites in Malahide Estuary. It is provided that 15kms is likely to exceed the potential zone of influence of the proposed works, and the zone of influence for European sites is more likely to extend to Malahide Estuary only. Regard is had to the impact on designated sites and the findings in Table 3 of the Ecological Report.

Note is had to the potential impact on Key Ecological Receptors via a source - pathway-receptor link.

- 7.10.5. Figure 4 has colour coded the habitats and ecological features noted within the subject lands during field surveys carried out. The majority of the site is improved grassland and none of the habitats on site are considered rare or threatened. It is provided that hedgerows and treelines are the only KER habitat within the subject lands. Desk and field studies were carried out and regard was had to habitats and flora and fauna studies.
- 7.10.6. The buildings and trees within the subject lands were assessed for their suitability for roosting bats. Bird activity within the subject lands was recorded using a combination of direct sightings and identification of birdsong. The site visits were carried out in September 2016 and March 2017 and details are given of surveys carried out. The presence of bats could not be ruled out and it is noted that the proposed development has the potential to result in the loss of roosts, if present. While the survey provided that when carried out no evidence of bats were noted on the site this was limited by the time of year and the inability to access the upper floors of the buildings. Section 5.5.1 refers specifically to bats and notes that there was no evidence of roosting found during the surveys carried out, which were confined to ground floor level. It is provided that should bats utilise the buildings within the subject lands as roost sites, there is potential that these could be lost or disturbed as a result of the proposed development.
- 7.10.7. Section 7.0 provides an assessment of effects and mitigation measures. This notes that an impact is considered to be ecologically significant if it is predicted to affect the integrity or conservation status of a KER at a specified geographical scale. The removal of commuting habitat (hedgerows and treelines) would potentially have an adverse effect on the local bat population. If present within the subject lands, bats maybe adversely affected through illumination of buildings and treeline around Skidoo House with artificial lighting. Section 7.3.1 provides details of Mitigation Measures for protection of Bats, including additional surveying in the summer months and adhering to the precautionary approach. In response to the Council's F.I request it is noted that three bat emergence/re-entry surveys were conducted on site over the summer period by ecologists from Scott Cawley Environmental. This noted that based on survey observations, bats use two buildings (Skidoo House and the

eastern stable building) as roosts on the subject site. They refer to the bat survey and bat mitigation strategy prepared by Scott Cawley for more information on the findings of the surveys and mitigation measures proposed for the protection of bats. It is provided that monitoring will be undertaken in accordance with the conditions of a granted derogation licence to confirm presence/absence of roosting bats following completion of works. Therefore, it has been noted that the lands at Skidoo support a population of roosting and foraging bats and if the Board decide to permit it is recommended that an appropriate condition relative to their protection including monitoring and mitigation measures for bats be included.

7.10.8. Section 7.4 provides an assessment of effects on breeding birds. This includes that the proposed development will result in a permanent loss of suitable habitat for birds that nest in buildings eg. Swallows. Mitigation measures are recommended and it is provided that no significant operational phase impacts are predicted on breeding birds as a result of the proposed development. The proposed development includes the removal of a 50m section of treeline which was assessed to be of local importance (higher value) and the loss of such would be a significant impact on the local bird population and as a commuting feature for roosting bats. As noted in the landscaping section above replacement planting along the western and southern boundary with native species is proposed and as a mitigation measure it is important that a landscaping scheme to include such replacement planting be implemented. While this will take some years to become established that the end result should be a net gain in habitat area over the existing treeline extent.

7.10.9. Section 8.0 has regard to cumulative effects and to other projects more recently permitted in the vicinity of the subject site. It is provided that in the absence of mitigation there is potential for cumulative impacts on water quality within the receiving environment. However, they contend that after the mitigation measures outlined have been applied, there is no possibility of significant cumulative effects in all cases except for breeding birds. There is potential for significant cumulative effects if works on the buildings within the surroundings result in the loss of habitat for birds that nest within buildings.

7.10.10. Monitoring measures are recommended including relative to tree planting, low lighting and surveys for roosting bats and breeding birds. It is concluded that

provided mitigation measures and monitoring are carried out to reduce the impact of the proposal on KERs the overall ecological implications of the project are limited.

7.11. Screening for Appropriate Assessment

- 7.11.1. An Appropriate Assessment Screening Report has been prepared by Scott Cawley. Table 1 provides an Overview of the Proposed Development and to its Receiving Environment. This notes that the desktop study found no records of any species or habitats for which European sites are designated within the subject lands or within a 2km radius of the proposed site. The proposed lands do not lie within or adjacent to any European Site, although they contain the Skidoo stream, which is located along the southern boundary of the subject lands, and ultimately connects to European Sites downstream within Broadmeadow Water and Malahide Bay. The proposed development site is located within the Nanny-Delvin river catchment. All waterbodies downstream of the proposed development have a Water Framework Directive (WFD) risk score of: *At risk of not achieving good status, and this means they are at risk of not achieving the objective for water quality as set out within the WFD.* The subject lands are located within the 'Swords' groundwater body which is classified as *'Poorly productive bedrock* and has a WFD score of: *Expected to achieve good status.* According to the GSI Map Viewer, the level of vulnerability to groundwater contamination from human activities across the subject land holding varies from 'high' to 'low' over the majority of the lands. Note is had to the proposed foul and surface water drainage systems for the proposed development as described in the Drainage documentation submitted, including the proposed use of SuDS relative to surface water and on site foul effluent treatment system and ultimate discharge to the local surface water catchment.
- 7.11.2. Fig.1 shows European sites within a 15km radius of the subject site. The Screening Report provides that the zone of influence for the proposed development is not likely to reach more than 1km from the subject lands, in most directions apart from the connection to the Skidoo Stream, which could in theory, extend the zone of influence beyond this. Table 2 provides an analysis of European Sites within 15kms and their Qualifying Objectives. The site is not within or that proximate to a Natura 2000 site. It is located c.4kms from the Malahide Estuary SAC (000205) and SPA (004025). It is c. 4.2km from Rogerstown Estuary SAC (000208) and SPA (004015) located to the

south east of the site. It is provided that there is no potential for significant effects on the Rogerstown European site as there is a significant marine water buffer between the proposed development and the European site. The European sites in the Broadmeadow Water/Malahide Bay are the only designated areas for nature conservation with a potential source-pathway-receptor link to the subject lands.

7.11.3. There is a direct hydrological link between the subject lands and Annex 1 Habitats within the Malahide Estuary SAC (4kms southeast) connected via means of the surface water networks. The Skidoo Stream, which runs through the subject lands joins the Broadmeadow River, which is the principle river to discharge to the Malahide Estuary. European Sites in Broadmeadow Water/Malahide Bay lie within the potential zone of influence of the proposed development. It is provided that there is a low risk that construction related contamination (e.g. through surface water runoff) could escape beyond the site and into the local drainage networks. However, given the on-site drainage design proposed relative to surface/foul waste water treatment and to the distance between the subject lands and the European Sites in Broadmeadow Water/Malahide Bay, any pollution events that occur are likely to result in small concentrations of contaminants reaching European Sites following dilution, absorption, and mixing in the local drainage network. The AA Screening Report provides that the impact is not considered to be significant in view of distance and the onsite waste water treatment plant being designed to adequately treat foul waters on site to a standard that will not negatively compromise the Water Framework Directive. The scale and duration of construction and development is limited in time and duration. As such the Screening Report concludes that on the basis of objective information there is considered to be no possibility of significant effects on European sites, either individually or in combination with other plans or projects.

7.11.4. It is of note that in response to the Council's F.I request for a revised NIS with regard to the re-routing of the watercourse an updated AA Screening Report prepared by Scott Cawley was submitted. Table 1 notes that the proposed development includes the rerouting of a drainage ditch, the installation of boxed culverts and construction adjacent to the same. Silt fences are to be installed within the ditch downstream of the area of the proposed construction works. It is provided that the construction will follow *Guidelines on Protection of Fisheries during Construction Works in and*

Adjacent to Waters (IFI, 2016). Details are given of these measures and it is provided that such measures will reduce the risk of any potential construction related pollution events affecting the downstream receiving environment. They also have regard to the proposed measures for surface/foul drainage and conclude that there is no possibility of significant effects on any European Sites during the construction or operation of the proposed development, in combination with other plans or projects. They conclude that the proposed development does not require AA.

7.11.5. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site Nos. Malahide Estuary SAC (000205) and SPA (004025) , or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.'

8.0 Recommendation

8.1. It is recommended that permission for this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the location of the subject site within the rural area on un-serviced lands zoned 'RU' Rural and outside any settlement development boundary, and away from public transport links or local services, it is considered that it has not been demonstrated that it is essential for the proposed Residential Care facility development to locate on this site in the rural area and that it would set an undesirable precedent and be unacceptable in terms of the appropriate and sustainable use of these rural and agricultural lands, where such uses are not permitted, and that it would therefore be contrary to the 'RU' zoning objective and to Objectives DSM46 and DSM47 of the Fingal County Development Plan 2017-2023. The proposed development would, therefore, materially contravene the current development plan for the

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

2. It is considered that the creation of a new access off the R108 Regional Road to serve the proposed development would be contrary to Objective DMS126 in that it would add to the proliferation of accesses in the area. It would also result in the removal of roadside boundary trees/hedgerows contrary to Objective RF63 and therefore be detrimental to the setting of Skidoo House as approached from the R108. As such it would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

20th of February 2018