



An  
Bord  
Pleanála

## Inspector's Report ABP-300044-17

### Development

'Outline Planning Permission' for 4no. 4-bedroom, 2-storey, detached dwellings with associated car parking and onsite wastewater treatment systems; and 'Planning Permission' or all associated ancillary site works necessary to facilitate the development including a new vehicular entrance and internal road from Tobersool Lane; Landscaping and Boundary Treatment.

### Location

Drummans, Tobersool Lane, Balscadden, Co. Dublin.

### Planning Authority

Fingal County Council.

### Planning Authority Reg. Ref.

F17A/0483.

### Applicant(s)

Calvaire Holdings Limited.

### Type of Application

'Outline Planning Permission' and 'Planning Permission'.

### Planning Authority Decision

Grant 'Outline Planning Permission', with Conditions, and  
Grant 'Planning Permission', with

Conditions.

**Type of Appeal**

Third Party

**Appellant**

Tobersool Lane Residents Assoc.

**Observer(s)**

None.

**Date of Site Inspection**

... January 2018.

**Inspector**

L.W. Howard.

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## 1.0 Site Location and Description

The c.1.228ha application site is located toward the western end of Tobersool Lane, Balscadden, Co. Dublin.

The site is generally rectangular in shape, topographically flat and forms part of a larger landholding (2.96ha), extending to the east and all of which has frontage onto the northern side of Tobersool Lane.

These lands, including the application site, appear in agricultural use.

At present, the application site is not served with an access off Tobersool Lane. A single agricultural entrance serves the larger landholding, located proximate to the southeast corner.

Adjacent contextual development / land use comprises – a row of large 2-storey dwellinghouses, each on individual large sites along the sites western lateral boundary. These large dwellinghouses face westward away from the application site, and front onto Tobersool Lane (as it north-south around the corner )

a small cottage and agricultural outbuildings, across Tobersool Lane to the south

Lands to the north of the application site are designated as a 'Nature Development Area'.

There are 2no. 'Recorded Monuments' in the vicinity of the application site. Monument DU-001-001 (Holy Well) is located to the east, and Monument DU-001-009 (Enclosure) to the south-west.

The M1Motorway is the wesxt of the application site

## 2.0 Proposed Development

2.1. Application was made for :

- 2.1.1. 'Outline' planning permission for 4no. 4-bedroom, 2-storey, detached dwellinghouses, with associated car parking and on-site wastewater treatment systems, and

- 2.1.2. Planning permission for all associated ancillary site works necessary to facilitate the development, including a new vehicular entrance and internal road off Tobersool Lane, landscaping and boundary treatment.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. Decision to grant 'outline' planning permission, subject to 8no. Conditions  
Having regard to the 3<sup>rd</sup> party grounds of appeal, the following are considered noteworthy :

- C2** Specified requirement of applications for 'permission consequent to a grant of outline permission' for the 4no. detached houses and ancillary development.
- C3** 'Permission consequent to a grant of outline permission' for the 4no. detached houses, shall only be granted on single plots, to applicants who comply with the Fingal 'Rural Settlement Strategy' as it applies to 'Rural Clusters'.
- C4** Required services of a suitably qualified archaeologist to carry out archaeological monitoring at the site.
- C5** Specifications required to be included in the 'plans and particulars' submitted as part of the applications for 'permission consequent to a grant of outline permission' (including – site layout, house type and design)
- C6** Specified requirements regarding 'foul sewer' and 'surface water drainage'

- 3.1.2. Decision to grant planning permission, subject to 8no. Conditions.  
Having regard to the 3<sup>rd</sup> party grounds of appeal, the following are considered noteworthy :

- C2** Required services of a suitably qualified archaeologist to carry out archaeological monitoring at the site.
- C3** Specified requirements in relation to surface water drainage on site
- C4** Specified requirements regarding 'access' and front boundary treatment
- C5** Specified eastern boundary treatment
- C6** Specified landscaping and planting, and lateral / shared boundary treatment between houses.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Having regard to the relevant provisions of the County Development Plan 2017-2023 amongst other relevant statutory planning references, the proposed development was assessed under the following primary issues :

#### Compliance with Zoning Objective / Development Plan Objectives (including Rural Settlement Strategy) :

- The site is zoned 'RC' Rural Cluster.
- Residential is considered 'permitted in principle' under the 'RC' Zoning Objective, subject to compliance with the Rural Settlement Strategy.

#### Rural Settlement Strategy

- Application is for 'outline' permission for 4no. dwellinghouses located within a 'Rural Cluster'.
- Should 'outline' permission be granted, any application for permission consequent of the grant of 'outline' permission, would require a supplementary application form and documentary evidence in support of each individual applicant's compliance with the Fingal Rural Settlement Strategy, as it applies to Rural Clusters.
- A Planning Condition requiring such compliance to be attached to any grant of 'outline' permission for the dwellings.
- With respect to County Development Plan 2017 provisions for residential development within 'Rural Clusters', satisfactory compliance has been demonstrated as follows –  
Objective DMS28 re. separation distances, and  
Objective RF20 re. minimum site areas for dwellinghouses within 'Rural Clusters'
- Compliance with Objective DMS24 re. minimum room areas, storage provision etc. to be assessed in the anticipated application for permission consequent to a grant of 'outline' permission.
- Note the applicant's provision of a narrow landscape buffer along the site's eastern boundary.

- Applicant advised that this area will not be taken in charge, having regard to size and configuration.

#### Integration and Impact on Visual and Residential Amenity of the area

- The proposed development does not unduly impact on the visual amenity of the local area.
- Local existing housing development comprises a multiplicity of house-types including, single storey, dormer and 2-storey dwellinghouses.
- Planning Officer is satisfied the overall development will integrate into the receiving environment.
- Conditions addressing the design and finish of the proposed dwellinghouses to be attached, including – house type, maximum floor area, maximum ridge height, material finishes / stone, roof finishes.
- Prevention of a suburban character to be achieved by way of requiring each dwellinghouse to be different in terms of ridge height and elevation design.
- Having regard to proposed layout, no significant overshadowing or overlooking anticipated. However, a Condition to be attached specifying that the 1<sup>st</sup> floor windows on the side / south elevations of proposed Units C and D comprise obscure glazing in order to mitigate potential overlooking of rear gardens within the Scheme.
- Given the separation distances concerned, no negative impact on the residential amenity of the adjoining dwellinghouses is anticipated.
- Note boundary treatment for the site's eastern boundary is not specified. A Condition to be attached specifying sites eastern boundary treatment (0.9m high post and rail timber fence, supplemented with native planting).

#### Transportation Issues

- County Transportation Planning Section has no Objection, subject to Conditions.
- Their Assessment Report includes the following :
  - that whilst no 'sightline drawing' included, it is possible to determine that reasonable sightlines are achievable at the proposed entrance, having regard to observations at the time of site visit.

- the design speed of the local road enabling access to the site is low, due to the geometry of the road.
- the setback character of the proposed entrance, will improve visibility to the west.
- visibility to the east is threatened by the adjoining field boundary. A Condition to be attached requiring setback of vegetation along the roadside boundary to the east of the proposed entrance (relevant lands indicated as within the applicant's ownership). A further Condition to be attached requiring maintenance of this boundary below 0.9m in height, to a point 120m east, thereby ensuring that adequate sightlines are achieved.

### Water and Drainage Issues

- The County Water Services Engineer and Irish Water have no objection to the proposed development, subject to Conditions.
- The watercourse to the north of the site is noted.
- Note that a separation distance of c.15m between proposed Unit D and this watercourse is maintained.
- Reference that Objective WQ05 of the Fingal County Development Plan 2017-2023 requires a riparian corridor of between 10m and 15m wide along such watercourses.
- Therefore the proposed development is considered acceptable in this regard.
- Having regard to the expressed 3<sup>rd</sup> Party concerns regarding flood risk in the locality, the County Water Services Engineer clarified that the application site is not within an area which is identified as being at risk of flooding on the Strategic Flood Risk Assessment (SFRA), undertaken during the preparation of the now adopted Fingal County Development Plan 2017-2023.
- Note the Irish Water recommendation that Conditions be attached addressing the following –
  - require future applicants to obtain connection agreements
  - that a water layout is submitted
- Distinguish the current application being for 'outline' permission. Consider it appropriate that these Conditions be attached to any permission consequent to a grant of 'outline' permission.



### Impact on Natura 2000 Sites

- Applicant completed an Appropriate Assessment Screening for the proposed development.
- Report concluded the proposed development will not result in any direct, indirect or secondary impacts on any Natura 2000 site.
- Therefore, an Appropriate Assessment is not required.
- Planning Authority consider this is acceptable.

### Archaeology

- 2no. Recorded Monuments located in the vicinity of the application site (DU-001-001 – ‘Holy Well’ located to the east, and DU-001-009 – ‘Enclosure’ located to the south-west).
- Report from Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Development Applications Unit) recommends Conditions be attached requiring pre-development testing to be carried out.
- Having regard to the nature of the proposed development, where applications for permission consequent to a grant of permission will be required for the individual sites, the Planning Authority consider that a Condition requiring archaeological monitoring during all sub-surface works, is more appropriate than pre-development testing / test trenching.

### Conclusion

- Proposed development considered to be in accordance with the proper planning and sustainable development of the area.
- Recommend ‘outline’ permission is granted for 4no. detached dwellinghouses with associated car-parking and on-site waste water treatment systems, subject to Conditions.
- Recommend permission is granted for all associated ancillary site works necessary to facilitate the development, including a new vehicular entrance and internal road from Tobersool Lane, landscaping and boundary treatment, subject to Conditions.

### 3.2.2. Other Technical Reports

<u>Water Services Section</u>	No objection, subject to Conditions.
<u>Transportation Planning Section</u>	No objection, subject to Conditions.
<u>Heritage Officer</u>	No report.

### 3.3. Prescribed Bodies

<u>Dept. of Heritage &amp; Gaeltacht</u>	No objection, subject to Conditions.
<u>Irish Water</u>	No objection, subject to Conditions.

### 3.4. Third Party Observations

3.4.1. Four (4no.) 3<sup>rd</sup> party submissions received by the Planning Authority in response to the application.

3.4.2. The issues argued and considered by the Planning Authority included :

- the inadequacy of the local road network, and traffic safety concerns arising from the proposed development.
- threat of flooding, and the impact of the proposed on-site waste water treatment systems on the receiving environment.
- that the proposed development is speculative, the future occupants of the dwellinghouses are unknown, and the proposed development is contrary to the 'RC' zoning objective.
- concern in respect of a specific boundary treatment within the development.
- the site is unsuitable. The large-scale development proposed is overdevelopment.
- the consequent negative impact on visual amenity locally, and the rural character of the area.
- confirmation all issues argued in the 3<sup>rd</sup> party objections / submissions have been given full consideration in the assessment of the proposed development.

## 4.0 Planning History

4.1.1. Application site

- Reg.Ref.No.F06A/1487** Planning Permission consequent to the grant of 'Outline' Planning Permission, granted to Cadenco Ltd. (17/01/2006) for site development works on lands known as Drummans. The development to consist of
- provision of a new vehicular entrance off Tobersool Lane, incorporating a 5m boundary setback to the road frontage,
  - a 4.5m wide internal access road,
  - pedestrian footpaths,
  - a vehicle turning facility, and
  - full landscaping provisions.
- Reg.Ref.No.F06A/0597** 'Outline' planning permission granted to Cadenco Ltd. (08/08/2006) for 4no. 2-storey 4-bed dwellinghouses, with associated septic tanks and percolation areas, along with ancillary site works including a new vehicular entrance off Tobersool Lane and 5.5m wide internal private access road on an overall site area of 2.9acres.
- Reg.Ref.No.F05A/1395** Refused 'Outline' Planning Permission to Cadenco Ltd. (11/11/2005) for 5no. 2-storey dwellinghouses with associated septic tanks and percolation areas, along with ancillary site works including a new vehicular entrance off Tobersool Lane.

## 5.0 Policy Context

### 5.1. National

#### 5.1.1. Sustainable Rural Housing Guidelines 2005

Both the National Spatial Strategy and the Sustainable Rural Housing Guidelines 2005 distinguish between rural generated housing and urban generated housing and seek to ensure that the needs of rural communities are identified in the development plan process. The guidelines make clear that in all cases, consideration of individual sites will be subject to satisfying normal planning considerations relating to siting and

design, including vehicular access, drainage, integration with the physical surroundings and compliance with the objectives of the development plan in general.

### 5.1.2. EPA Code of Practice

The EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009 applies.

## 5.2. Development Plan

### 5.2.1. Fingal County Development Plan 2017-2023

#### Ch5 Rural Fingal

#### S5.2 Fingal's Rural Settlement Strategy

##### Settlement Strategy

##### Rural Clusters

**Objective RF19** Encourage consolidation of rural housing within existing Rural Clusters which will cater for rural generated housing demand, as an alternative to housing in the open countryside.

##### Rural Cluster Settlement Strategy

- Settlement within the Rural Clusters will be open to members of the Fingal rural community who demonstrate a rural-generated housing need.
- For the purposes of the Settlement Strategy for Rural Clusters, rural-generated housing need is defined as either :
  - Persons currently living, and who have lived continuously for the past ten years, or have previously lived for a minimum of ten continuous years, or
  - Persons working continuously for the past ten years, within areas of the County currently zoned rural. These areas are zoned Rural Village (RV), Rural Cluster (RC), Rural (RU), Greenbelt (GB), or High Amenity (HA).

**Objective RF20** Permit only persons with a rural-generated housing need, as defined within this section of the

Plan, planning permission for a house within a Rural Cluster, where the site size is a minimum of 0.2ha for on-site treatment systems, and conforms to the drainage and design Standards required by the Council.

### **Layout and Design in Rural Clusters**

Ensure layout and design contribute positively to the rural character of the area, and comply with the requirements set out in Ch.12 - Development Management Standards.

**Objective RF22** Permit only development which has regard to the existing character and role of the cluster within the wider rural area ...

**Objective RF23** Ensure proposals for new dwellings do not compromise the development potential of adjoining sites by means of on-site layout and house design and both vehicular and pedestrian access. All sites must provide sustainable drainage infrastructure.

**Objective RF24** Minimise the number of new entrances to sites within a rural cluster with a preference for sharing accesses with existing dwellings or using existing entrances.

### **Rural Drainage**

**Objective RF66** Ensure compliance with the requirements for on-site treatment systems, and the EPA Code of Practice.

**Objective RF67** Implement the recommendations of the Ground Water Protection Scheme

## **Ch 11 Land Use Zoning Objectives**

### **S11.8 Zoning Objective “RC” Rural Cluster**

Objective : Provide for small scale infill development serving local needs, while maintaining the rural nature of the cluster.

“Residential” land use permitted in principle, subject to compliance with the rural settlement strategy.

## **Ch 12 Development Management Standards**

### **S12.6 Design Criteria for Housing in the Countryside**

Of relevance are the Design Criteria regarding ‘Siting’, ‘Materials’ and ‘Boundary Treatment’.

### **5.3. Natural Heritage Designations**

None.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are summarised as follows :

#### **6.1.1. Road Access and Traffic Safety**

- Tobersool Lane was initially built to service 9no. houses. It now services over 30no. households.
- The narrow lane (ie. in places 2m wide) has capacity for only one vehicle at a time. Therefore when two vehicles approach from opposite directions, there is difficulty for these vehicles to safely move passed one another.
- The cul-de-sac nature of the lane results in increased traffic volume.
- A number of ‘blind hairpin bends’ along the lane, increases the existing dangers for all road users.
- The nearest ‘public transport’ is at the Delvin Bridge (ie. 3km). Pedestrians, including school children, use the lane to access public transport and schools / playground.

- Tobersool Lane also services several farm holdings. This necessitates passage of agricultural machinery and grazing stock (ie. horses, cattle and sheep).
- Increased traffic movements resulting from the proposed development :
  - would make the existing bad situation unacceptable and unsafe.
  - would push the narrow cul-de-sac passed its already stretched limits regarding both volume and safety.

### 6.1.2. **Surface Flooding**

- Although designated 'Rural Cluster', the environmental report classifies the site's waste water vulnerability as 'high' and "restricts their waste water treatment report to "usually favourable".
- Application site is bounded on its north side by a natural watercourse.
- During periods of heavy rainfall, this watercourse carries a high volume of water.
- During late Autumn and Winter, a combination of heavy rains and tidal surges causes severe surface flooding. This often renders stretches of Tobersool Lane impassable by car.
- The application site itself is flooded at times.
- Surface water run-off from gutters and covered surface areas associated with the proposed development will significantly increase the volume of the natural watercourse, and increase the likelihood of flooding at the critical times.

### 6.1.3. **Waste Water Treatment**

- The impacts of the additional septic tanks, the water from which will percolate into the nearby stream, increases environmental considerations.
- Noteworthy is that over 30no. septic tanks already service the existing houses developed along Tobersool Lane.

### 6.1.4. **Planning permissions locally for additional houses**

- Several individual applications for permission have been granted, since the Council decided to grant 'outline' permission on the application site.

- Council has granted permission for a number of single houses along Tobersool Road.

#### 6.1.5. **'Rural Cluster Planning'**

- 'Rural Cluster' planning for the site restricts future individual site purchasers to regulations regarding 'local need' and 'house design', to what is classified as rural in character.

##### 'Local Need'

- The proposed development therefore –
  - legally restricts future purchasers to persons already resident, or working in the immediate area.
  - is intended to meet immediate local needs as they arise, and to protect against speculative development.
- Therefore, consideration of further house building along Tobersool lane, should be restricted to individual, rather than blanket planning applications.
- In the future, planning applications should be reserved for applicants qualifying in strict adherence and compliance with the relevant regulations, giving due regard to environmental and infrastructure capacities.

##### 'House Design'

- Rather than conforming with traditional housing locally, 2-storey, 4-bedroomed housing contrasts with it, and in no way could be classified as rural in character for the local area.

#### 6.1.6. **Conclusion**

- The proposed development will have irreversible negative impacts on both the natural environment and the quality of life of the existing local resident community.
- Tobersool Lane is already at capacity regarding traffic.
- Development, such as that proposed, raises critical environmental concerns regarding ground water.



- Development – extends beyond the conditions attached to local needs compliance regulations.
- Emphasise consideration of the following key issues, against the proposed development :
  - The rural character of the local area, and the unsuitability of Tobersool Lane (a cul-de-sac) to sustain additional traffic.
  - The additional run-off water into existing watercourses already prone to seasonal flooding
  - Threat to health and safety consequent of waste water from
    - additional septic tanks both consequent of the proposed development, and
    - the additional planning permissions granted locally for single houses within the catchment

## 6.2. Applicant Response

The applicant’s response may be summarised as follows.

### 6.2.1. Single Lane Roadway and Increased Traffic Volumes

- Having regard to the arguments made in the above regard by the 3<sup>rd</sup> party appellants, the applicant emphasises that the application site is zoned ‘RC – Rural Cluster’, under County Development Plan 2017-2023. Within the ‘Rural Cluster (RC)’ zone, residential development is permitted in principle, subject to compliance with the County ‘Rural Settlement Strategy’.
- This status has been confirmed by the Planning Authority.
- The residential development proposed is considered small in nature (ie. ‘outline’ permission for 4no. dwellinghouses only).
- The objective in terms of the County ‘Rural Settlement Strategy’, is for ‘Rural Clusters’ and small settlements to play an important role in accommodating rural generated housing need within the County, by helping to contain pressure for housing in the open countryside.
- Located on Tobersool Lane, the application site is zoned ‘Residential Cluster’.
- The County Development Plan 2017-2023 provides that ‘Rural Clusters’ –
  - “... have more limited characteristics, fewer services and a more residential focus than the villages”;

- provide an alternative to one-off housing in the countryside through the consolidation of rural residential development within existing small clusters;
- "... will provide the rural community with an opportunity to choose more rural-style housing, to that which is provided within Rural Villages".
- The development of 4no. dwellinghouses, on appropriately zoned lands, within a self-contained site, with a single shared vehicular entrance onto Tobersool Lane / public road, will provide for reduced traffic hazard, in comparison to 4no. dwellinghouses developed on individual sites, each with their own vehicular entrance onto the public road. This alternative scenario could be provided for on adjoining 'RU' zoned lands under the Fingal County 'Rural Settlement Strategy'.
- Applicant emphasises that the proposed development was positively assessed by the Planning Authority, and that the County Transportation Planning Department's assessment report confirmed that they had no objection to the proposed development.
- The proposed development conforms with Objective RF19 of the County Development Plan 2017-2023, which seeks to "encourage consolidation of rural housing within existing 'Rural Clusters' which will cater for rural generated housing demand, as an alternative to housing in the open countryside, and encourage the reuse of existing buildings within the cluster over any new development".
- The proposed development is small in nature. Traffic generated will be minimal which together with the low design speed of the public road, will not give rise to any increased traffic hazard or risk of potential conflict between vehicles and pedestrians.

#### 6.2.2. **Wastewater Concerns and Flooding**

- On-line review of the OPW Flood Risk Management Map, shows the application site is not located within a 'Flood Zone'.
- Confirm appropriate measures to be taken to ensure sufficient surface water runoff both from gutters and cove red surface areas associated with the proposed development, will be provided.

- As part of the planning application, a SuDS proposal addressing drainage from the access road will be submitted, as outlined in the County Water Services report.
- Surface water drainage will be in compliance with the “*Greater Dublin Regional Code of Practice for Drainage Works – Version 6.0*”
- Having regard to Map 01 of the County ‘Strategic Flood Risk Assessment’ (included in the County Development Plan 2017-2023), and to the relevant OPW Flood Maps (ie. Fig.4 and Fig.5), confirm the application site –
  - is not exposed to any significant flood risk, and
  - is suitable for residential development in accordance with the OPW’s Guidelines on ‘The Planning System and Flood Risk Management’.
- As outlined in the County ‘Water Services’ report, and consistent with ‘surface water drainage’, the proposed foul drainage to be in compliance with the “*Greater Dublin Regional Code of Practice for Drainage Works – Version 6.0*”
- The applicant’s completed ‘Site Characterisation Report’, as per ‘EPA Code of Practice : Wastewater Treatment Systems for Single Houses (2009)’ demonstrated no concerns regarding the provision of appropriate on-site wastewater treatment systems on the site, and that all works to be carried out will be in accordance with the EPA Code of Practice – 2009.
- Further, the installation of the wastewater treatment systems and SPF shall be constructed under supervision, strictly in compliance with EPA Code of Practice – 2009.
- The report also set out that the ‘polishing filter / percolation area’ to be regularly inspected, and that regular desludging is necessary.
- Emphasise that as part of the planning permission application documentation, full plans and drawings relating to the design and siting of wastewater treatment systems to be included.
- The 3<sup>rd</sup> party appellants argue concern that the water percolating from the additional septic tanks will negatively impact the local stream. However, no substantiated documentation has been submitted by the 3<sup>rd</sup> party appellants, demonstrating such negative environmental impact.
- Emphasise that no septic tank to be provided with the proposed dwellings, as these are not compliant with current EPA Guidelines. Rather, the chosen

Treatment Systems re to be modern designs compliant with the latest EPA Guidelines. No pollution of adjoining water courses will result.

- Point out that neither the County Engineering Department, or 'Hydrocare Environmental', raised any major concerns regarding foul drainage arrangements to serve the proposed development.
- The applicant believes wastewater treatment system will be installed to a satisfactory standard, in compliance with relevant Guidelines (ref. Condition No.6 of **F17A/0483**).
- Reference previous 'outline' planning permission granted on the application site under **F06A/0597**, for 4no. houses and including permission for septic tanks and percolation areas.

### 6.2.3. **Granted Permissions**

- Clarify the current application is made because the 'outline' planning permission previously granted for 4no. houses on the application site, has now expired.
- The current Fingal County Development Plan 2017-2023 was adopted by Council in February 2017 and came into effect on 16<sup>th</sup> March 2017.
- As part of the adopted Development Plan, the Planning Authority –
  - completed a comprehensive assessment of the zoning of the application site and the surrounding area, and
  - concluded the 'Rural Cluster' zoning, which permits a development such as that proposed, was suitable for the application site and the character of the surrounding area.
- The process of completion of the new County Development Plan 2017-2023, included a process of full public consultation. During this time, the 3<sup>rd</sup> party appellants and the wider community had the opportunity to make a submission seeking prevention such a zoning of these lands.
- No such submission was made during this time, by the 3<sup>rd</sup> party appellants, to the Planning Authority.

### 6.2.4. **Rural Cluster Planning and Restrictions**

- Schedule 1, Condition No.3 of the ‘outline’ permission granted under **FA17/0483**, states that “permission consequent to this outline permission for a dwelling shall only be granted on single plots to applicants who comply with the applicable Rural Settlement Strategy of the Fingal Development Plan as it applies to Rural Clusters”.
- Rural Clusters serve as areas where members of the local community can live as an alternative to housing in the open countryside, as stated in the County Development Plan 2017-2023.
- Established precedent exists within the County to permit ‘outline’ permission for multi-unit developments within Rural Clusters, with the subsequent applicants for permission consequent, being subject to complying with the Rural Settlement Strategy of the Development Plan.
- Relevant examples exist at Wimbleton, Co. Dublin (**F08A/0302** and **F06A/0205**), amongst others.

#### 6.2.5. Conclusion

- The proposed development will not give rise to increased flood risk in the local area, as the application site is not located within a flood risk zone.
- Nor will adverse environmental effects result.
- The design and layout of the proposed development accords with both
  - the County Development Plan 2017-2023’s Guidance on Rural Housing, and
  - the previous permission granted on the application site.
- The final design of the dwellinghouses will be subject to detailed application for permission consequent of ‘outline’ permission granted.  
The individual applicants or each dwellinghouse to be required to demonstrate they are in accordance with the requirements of the Fingal County Rural Settlement Strategy, as it applies to the application site.
- The proposed development, permitted in principle within the ‘Rural Cluster’ zoning objective, will have no negative impact on either the natural environment, of the quality of life of the local community at Tobersool Lane.
- Individual dwellings are sensitively sited, demonstrating consistency with the contextual landscape and making best use of the natural environment.

- The County Development Plan 2017-2023 ‘Design Guidelines for Rural Dwellings’ advocates that clustering with existing rural buildings is preferable to stand alone locations.
- The single access onto the public road –
  - has been deemed safe and appropriate by the Planning Authority, and
  - is safer than the provision of 4no. individual accesses onto the public road.
- Accordingly, request the Board uphold the decision of Fingal County Council, and grant permission for the proposed development.

### 6.3. Planning Authority Response

6.3.1. The issues argued on appeal generally reiterate those submitted in the 3<sup>rd</sup> party submissions lodged under **Reg.Ref.No.F17A/0483**.

#### 6.3.2. Road Access and Traffic Safety

- The County Transportation Planning Section had no objection to the proposed development, subject to Conditions.
- The Transportation Planning Section determined that reasonable sightlines were available, from the proposed entrance.
- The design speed of the road, onto which access is proposed, is low, due to the road geometry.

#### 6.3.3. Flooding

- The County Water Services Engineer has advised the site is not within the area identified as being at risk of flooding on the ‘Strategic Flood Risk Assessment (SFRA), completed during the preparation of the now adopted Fingal Development Plan 2017-2023.

#### 6.3.4. Rural Settlement Strategy / Rural Clusters

- Any application for planning permission consequent to a grant of ‘outline’ permission in respect of the dwellings, would have to be accompanied by a supplementary application form and documentary evidence in support of each individual applicant’s compliance with the Fingal Rural Settlement Strategy, as it relates to ‘Rural Clusters’.

- Condition No.3 in Schedule 1 of the grant of 'outline' permission, addresses this issue.

#### 6.3.5. **Archaeological Potential**

- The report from Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Development Applications Unit) recommended Conditions be attached requiring pre-development testing be carried out.
- Condition No. 4 in Schedule 1 of the decision to grant 'outline' permission requires archaeological monitoring during all sub-surface works thereby addressing the Departments recommendation.

6.3.6. The proposed development, by way of its scale and design does not unduly impact the amenity of neighbouring property, nor from the amenity of the surrounding area.

6.3.7. Having regard to both the 3<sup>rd</sup> party appellants appeal submission and those submitted in response to the original application, the overall development proposed, is considered acceptable, subject to the Conditions attached.

6.3.8. Request the Board uphold the decision of the Planning Authority.

6.3.9. If the Board is minded to grant planning permission, request that a Condition be attached requiring payment of a Development Contribution in accordance with the Planning Authority's Development Contribution Scheme.

#### 6.4. **Observations**

None

#### 6.5. **Further Responses**

None

#### 7.0 **Assessment**

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed Development
- Visual Amenity Impact / Streetscape – Tobersool Lane
- Residential Amenity Impact
- Road Access and Traffic Safety
- Surface Water Flooding
- Wastewater Treatment
- Archaeological Heritage
- Appropriate Assessment.

## 7.2. Principle and Location of the proposed Development

- 7.2.1. The application site is located within an under-serviced rural area of County Fingal, that is designated as being under strong urban influence in the Sustainable Rural Housing Guidelines 2005 and the Fingal County Development Plan 2017-2023. Accordingly, I consider there should be a presumption against development at the application site, save for in instances where it can be demonstrated that the applicant accords with the Planning Authority's 'Rural Settlement Strategy', as set out in the County Development Plan 2017-2023.
- 7.2.2. The application site is zoned 'Rural Cluster (RC)' under the Fingal County Development Plan 2017-2023. The Objective on 'RC' zoned lands is to "provide for small scale infill development serving local needs while maintaining the rural nature of the cluster".
- 7.2.3. Having regard to the arguments submitted against the proposed development in this regard by the 3<sup>rd</sup> party appellants, I believe it relevant to reference that the 'Vision' set out in the County Development Plan 2017-2023 for 'RC' zoned lands is to "provide a viable alternative to settlement in the open countryside, and support small scale infill development by providing the rural community with an opportunity to choose more rural-style housing than is provided within the Rural Villages, and by facilitating the development of small scale and home-based enterprise among members of the rural community".
- 7.2.4. Therefore, rather than the single, and often 'ad-hoc' application process for rural housing, and for which the 3<sup>rd</sup> party appellants appear, on the information available, to express a preference, the zoning objective 'Rural Cluster' for Tobersool intends for an alternative settlement option for housing within rural areas of County Fingal.



Whilst single applications for individual sites within 'Rural Clusters' are certainly permissible, I understand the preferred settlement option within 'Rural Clusters' is between the single individual rural house option, and the higher density, closer, urban type settlement patterns characterising 'Rural Villages' and other urban centres within Fingal. In this regard, I reference that 'Rural Cluster' Objective RF19 explicitly seeks to "encourage consolidation of rural housing within existing 'Rural Clusters' which will cater for rural generated housing demand, as an alternative to housing in the open countryside". At this scale, the 'Rural Cluster' zoning objective also seeks to enable small-scale and home-based enterprise amongst members of the rural community. In my view, the proposed modest residential development of 4no. dwellinghouses satisfactorily complies with the Fingal County Development Plan 2017-2023 'Rural Settlement Strategy', which enables a framework for the development of 'Rural Clusters' on appropriately zoned lands.

- 7.2.5. Specifically, compliance has been demonstrated with the 'Rural Cluster' Settlement Strategy (Section 5.2), and Objectives RF19 and RF20 thereto. As discussed further below, satisfactory compliance has also been demonstrated with Section 5.2 – 'Layout and Design in Rural Clusters'. In my view it is particularly the required compliance with Objectives RF22-RF24 that enables consolidated, multiple dwellinghouse development sharing a single vehicular entrance, such as proposed in the current application, and in compliance with Objectives RF19 and RF20.
- 7.2.6. Having further regard to the arguments made by the 3<sup>rd</sup> party appellants against the proposed development, I rather discern it to have been strategic and reasonable use of the provisions of the Planning and Development Act 2000 (as amended) which allow for applications to be made for 'outline' planning permission, to be subsequently followed up by individual applications 'consequent' of 'outline' planning permission. This approach clearly enables an overall prescriptive framework for development of the consolidated site, with a single shared vehicular access off Tobersool Lane, whilst allowing for the individuality of the anticipated subsequent applications for development of each site.
- 7.2.7. Multiple unit rural residential development such as that currently proposed within the Tobersool 'Rural Cluster', is not new to County Fingal. In this regard I note the applicant's reference to argued established 'precedent' within the county to permit 'outline' permission for multi-unit development within 'Rural Clusters', with the subsequent applicants for permission 'consequent', being subject to compliance with

the 'Rural Settlement Strategy' provided within the adopted County Development Plan at that time. Relevant case history examples within the County exist at Wimbletown Rural Cluster, Co. Dublin – **F08A/0302** (OPP and PP, comparable with the current application **F17A/0483**), and at Hedgestown Rural Cluster, Co. Dublin – F08A/1212 (OPP) and **F12A/0038** (PP) and **F17A/0122** (PP).

- 7.2.8. Accordingly, residential land use is permitted in principle, on lands zoned 'Rural Cluster (RC)', subject to compliance with the County Rural Settlement Strategy. As the end-users, or purchasers of the 4no proposed dwellinghouses, and / or individual sites are not known at this stage, it is reasonable in my view, to envisage that permission consequent will be subsequently applied for by the purchaser of each site. It is at this stage that the relevant substantive documentary evidence, demonstrating compliance with the County 'Rural Settlement Strategy', will be submitted
- 7.2.9. Having regard to further discussions below, I believe the proposed new residential development of 4no. dwellinghouses to be located within the Tobersool 'Rural Cluster', is satisfactorily compliant with the relevant provisions of the Fingal County Development Plan 2017-2023, and subject to Conditions, would be in accordance with the proper planning and sustainable development of the area.

### **7.3. Visual Amenity Impact / Streetscape – Tobersool Lane**

- 7.3.1. The sense of place of the Tobersool Rural Cluster, located at the western end of Tobersool Lane, is influenced by the pattern of residential development comprising low density, large single detached houses, on large well landscaped and planted properties, developed along either side of Tobersool Lane. In fact, Tobersool Lane in itself, a cul-de-sac, historically part of the local rural road network serving agricultural lands, farming activity and associated traffic movements, and more recently a growing number of independent single domestic houses with associated domestic traffic movements, positively contributes to this amenity.
- 7.3.2. I have taken note of the established scale and pattern of residential development in the area. I believe there is a consistency in size and scale of the built environment both existing within Tobersool Rural Cluster, and throughout the approach along Tobersool Lane from the Drogheda – Balbriggan road, with which the proposed new 4no. single dwellinghouse development is compatible (see photographs attached).

In my view, no disproportional negative visual impact will result locally, consequent of the proposed development.

- 7.3.3. I note that no designated Scenic Views or Viewing Points exist locally, in the vicinity of the application site. Further, albeit at the 'outline' planning permission stage, I have had regard to the site layout plans and drawings submitted by the applicant as part of the consolidated application documentation. I am satisfied that satisfactory compliance has been reasonably demonstrated in accordance with the relevant provisions and requirements of the County Development Plan 2017-2023. These include, Section 5.2 'Fingal's Rural Settlement Strategy – Rural Clusters', regarding the 'layout and design' within 'Rural Clusters', and with specific reference to Objectives RF22 – RF24. Further satisfactory compliance has been demonstrated in accordance with framework of 'Development Management Standards' set out at Section 12.6 – 'Design Criteria for Housing in the Countryside'.
- 7.3.4. Accordingly, I believe that the resultant change in prevailing rural streetscape along Tobersool Lane would not be overbearing on the common scale and uniformity of the immediate adjacent residents, and the 'Rural Cluster' in context, with no obvious negative impact on the prevailing visual and residential amenity. Whilst the finer detail of site layout and house design is to be Conditioned for decision at the permission consequent of 'outline' planning permission stage, I believe that the proposed modest residential development would be in accordance with the proper planning and sustainable development of the area.

#### **7.4. Residential Amenity Impact**

- 7.4.1. In as much as I understand rural amenity values as referring to those natural or physical qualities and characteristics of the Tobersool Rural Cluster, that contribute to residents appreciation of its pleasantness, liveability and its aesthetic coherence, I believe on the information available at the 'outline' planning permission stage, that the proposed new 4no. single detached dwellinghouses at this location along Tobersool Lane will have no serious disproportionate negative impact on the prevailing residential amenity.
- 7.4.2. I consider this to be the case having regard to the discussion of the impact on the prevailing visual amenity and local streetscape at 7.3 above, which I believe would

not negatively influence the character and quality of the contextual residential amenity enjoyed locally.

7.4.3. At the low density of residential development existing locally along Tobersool Lane, with which the proposed residential development is in my view consistent, I note that:

- generous separation distances will result between houses,
- generous private domestic garden / amenity space, on each of the 4no. individual sites, will be available to future residents / occupiers of the new dwellinghouses,
- adequate natural light / direct sunlight to both the outside domestic garden / amenity spaces, as well as internal rooms is reasonably anticipated,
- satisfactory privacy / freedom from observation will be available, and
- generous on-site car parking capacity will be available in accordance with County Development Plan 2017-2023 Standard.

Accordingly, I am of the view that the proposed modest development of 4no. new detached dwellinghouses, on individual sites, will have no serious, or disproportionate negative impact on prevailing residential amenity locally, and will enable satisfactory residential amenity for the anticipated new residents / occupiers of the new dwellinghouses.

7.4.4. I do acknowledge the potential for negative impact of construction activity on residential amenity, whilst site works and construction activity are on the go. This is a concern apparent by the 3<sup>rd</sup> party appellants. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development. Further, I consider that given these activities and associated perceived impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate conditions to a grant of 'outline' planning permission. I note that the Planning Authority have sought to address these concerns by way of Conditions No.7 and 8 particularly, included at Schedule 1 to the decision to grant 'outline' planning permission.

7.4.5. Accordingly, I believe that whilst the proposed modest development of 4no. new single dwellinghouses at this location on Tobersool Lane would certainly bring change to the local neighbourhood, the proposal is in accordance with the zoning objective '**RC – Rural Cluster**' to provide for small scale infill development serving local needs, while maintaining the rural nature of the cluster. Fundamental in this regard, is compliance with the County 'Rural Settlement Strategy'. This in my view, has been satisfactorily demonstrated by the applicants. In my view, and subject to further detailed determination and demonstration of compliance at the permission consequent of 'outline' planning permission stage, the proposed development would be in accordance with the proper planning and sustainable development of the area.

## **7.5. Road Access and Traffic Safety**

7.5.1. A new vehicular access is proposed off Tobersool Lane, to facilitate the proposed development. The current geometric, spatial and topographical context of the location of the proposed new single entrance junction is clearly shown in the photographs, taken at the time of site visit.

7.5.2. Tobersool Lane is generally straight, passed the c.52m application site frontage. Specifically, Tobersool Lane is straight throughout its approach from the east. This road geometry is sustained for c.100m to the western approach, at which point Tobersool Lane takes a right angled / 90° turn northward.

7.5.3. Having regard to relevant provisions of the County Development Plan 2017-2023, sightline visibility is satisfactory from the location of the proposed new entrance to each of the western and eastern approaches along Tobersool Lane. In this regard, and having considered the concerns argued by the 3<sup>rd</sup> party appellant as to the substandard capacity of Tobersool Lane to safely sustain increased volumes of traffic generated, I believe that the designed set back character of the proposed new entrance, will improve sightline visibility significantly to the west. This would also be the case to the easterly approach. However, as recognised by the County 'Transportation Planning Section', sustained visibility to the east along Tobersool Lane is threatened by the adjoining field boundary frontage onto the Lane. I note the County 'Transportation Planning Section' recommendation that sustained sightline visibility to the east would be achieved by the set back of vegetation along the roadside boundary in this direction. Further, maintenance of this planted boundary

to a maximum height of 0.9m to a point 120m east, would ensure the sustained adequacy of sightlines eastward.

7.5.4. I note that implementation of these requirements have been ensured by way of Condition No.4, attached at Schedule 2 to the Councils decision to grant planning permission for development, including the proposed new vehicular entrance off Tobersool Lane.

7.5.5. I also note that all works required in this regard, are either to be accommodated within the application site boundaries (ie. 'red-line' boundary), or within the applicant's larger land-holding (ie. 'blue-line' boundary). Therefore, no 3<sup>rd</sup> party consents, or legal agreements are required in order to achieve required sightline visibility.

7.5.6. Further, and contrary to the arguments against the proposed development made by the 3<sup>rd</sup> party appellants, I believe the applicants compliance with the requirements set out at Condition No.4. under Schedule 2 :

- to maintain in perpetuity the height of vegetation along the roadside boundary frontage to a distance of 120m east of the proposed new entrance, below 0.9m
- the set back of the front boundary of the site 6m from the centreline of the existing Tobersool Lane carriageway
- the strip between the edge of the carriageway and the setback boundary to be levelled and grassed and
- the construction of road widening to be to the satisfaction of the Area Engineer,

will in fact positively contribute to and directly enable improved traffic safety along Tobersool Lane by way of sight visibility and capacity for passing movements

7.5.7. In motivating the proposed development I note the applicants distinction made that the proposed development of 4no. dwellinghouses, on appropriately zoned 'RC' lands, within a self-contained site, with a single shared vehicular entrance onto Tobersool Lane, will enable better road / traffic safety conditions, with reduced traffic hazard, in comparison to the alternative development scenario for the applicant's lands by way of 4no. dwellinghouses developed on individual sites, each with their own new vehicular entrance directly onto / off the public road. In itself, I note that the proposed single shared vehicular entrance onto Tobersool Lane, would clearly

comply with Objective RF24 for the 'Layout and Design in Rural Clusters' (Section 5.2 'Fingal's Rural Settlement Strategy – Rural Clusters' of the County Development Plan 2017-2023) which requires the minimisation of the number of new vehicular entrances onto sites located within a 'rural cluster', with a preference for sharing accesses.

- 7.5.8. I note that this alternative site development scenario, could be provided for on the applicants remaining landholding adjoining to the east, zoned 'RU', under the Fingal County 'Rural Settlement Strategy'. Notably, I distinguish that these lands are located outside the demarcated boundary of the designated Tobersool Rural Cluster.
- 7.5.9. Further, satisfactory separation distances and intervisibility exists along Tobersool Lane in this vicinity between the proposed new entrance, and the existing domestic and agricultural entrances. Improvement to local traffic safety will also be enabled by the front boundary set back and treatment as proposed and Conditioned.
- 7.5.10. In my view, satisfactory compliance has been achieved with the relevant traffic safety Standards set out in the Fingal County Development Plan 201-2023, and that no obviously serious threat to traffic safety is apparent, consequent of the creation of a new single entrance directly off Tobersool Lane at this location. Accordingly, the proposed development would be in accordance with the proper planning and sustainable development of the area.

## **7.6. Surface Water Flooding**

- 7.6.1. I have had regard to the local watercourse / stream located to the north of the application site, and about which the 3<sup>rd</sup> party appellants argue concern. These concerns include both flooding of the application site from seasonal overflow of the watercourse, and the increased surface water runoff anticipated from the proposed development, causing rise in the natural water levels locally.
- 7.6.2. In response, I reference that Objective WQ05 of the Fingal County Development Plan 2017-2023 requires a riparian corridor of between 10m and 15m wide along such watercourses. Having regard to the proposed site layout of the 4no. dwellinghouse development, I note that proposed Unit D, the nearest to the watercourse, has a separation distance of c.15m which is maintained.

- 7.6.3. Having further regard to flood risk in the locality, I note the clarification made by the County Water Services Engineer that the application site is not located within an area which is identified as being at risk of flooding on the Strategic Flood Risk Assessment (SFRA), undertaken during the preparation of the Fingal County Development Plan 2017-2023.
- 7.6.4. Consistent with 'Flood Zone Map 01' of the Fingal County Development Plan 2017 SFRA, on-line review of the Office of Public Works (OPW) Flood Risk Management Mapping, indicates that the application site is not located within a 'Flood Zone'. In accordance with the OPW's Guidelines on 'The Planning System and Flood Risk Management', this exclusion affirms the application site as being suitable for residential development, as proposed.
- 7.6.5. With respect to the proper drainage of surface water consequent of the proposed development, I note the applicant's proposals for mitigation of surface water runoff both from gutters and covered surface areas within the development. Specifically, as outlined in the County Water Services report, a SuDS proposal for drainage from the internal access road, has been Conditioned attached at Schedule 2. Further, all surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works – Version 6.0'. Such requirement has been Conditioned both at Schedule 1 and at Schedule 2.
- 7.6.6. Accordingly, I believe the proposed development to be acceptable with respect to both threat from local flooding, and surface water drainage from the site once the development has been completed.

## **7.7. Waste Water Treatment**

- 7.7.1. The local Tobersool area is unserved in terms of public waste water treatment, thus necessitating the use of an individual on-site effluent treatment system on the application site comprising 4no. individual sites, each anticipated with their own on-site effluent treatment system. I have had regard to the "Site Characterisation Report", as per EPA Code of Practice : Wastewater Treatment Systems for Single Houses (2009) on file, completed by 'HydroCare Environmental Ltd.'(08<sup>th</sup> August 2017). I have further had regard to my own observations made at the time of site visit, most notably the absence of any standing water collection (this after rains).



Further, I have verified the shown classification of the site on the 'GSI Vulnerability Map' as 'High' and 'Low', on the 'Aquifer Category Map' as 'Pu – Poor Aquifer (Bedrock which is generally Unproductive), and having a ground water protection response of R1, under the EPA Code of Practice. I understand single house effluent treatment systems are acceptable in such areas, subject to normal good practice (ie. 4no. separate dwellinghouses, on individual sites, to be served with their own on-site effluent treatments system).

- 7.7.2. I note that in the 2.1m deep Trial Hole, a water table was recorded at a depth of 1.00m from the ground surface. 'T' and 'P' test results of 57.00 and 43.56 respectively were recorded, and considered as falling within the allowable range set out by the EPA Guidelines for a secondary treatment system to EPA Code of Practice – Waste Water Treatment Systems for Single Houses (2009).
- 7.7.3. Specifically, for each of the 4no. individual sites, the proposal is to install a packaged waste water treatment system and polishing filter, with discharge to ground water. Only grey and foul water from the dwellinghouse are to enter the individual waste water treatment systems. I note that all storm water is to be diverted to separate soakpits.
- 7.7.4. The installation of the wastewater treatment systems and the polishing filters are to be constructed under certified professional supervision, strictly in compliance with EPA Code of Practice 2009. Similarly, once constructed, the 'polishing filter / percolation areas' are to be regularly inspected. A stated commitment to regular desludging is also noted.
- 7.7.5. I note that the applicant distinguishes that as part of the application for planning permission consequent of 'outline' permission documentation, full site plans and drawings relating to the design and siting of the individual site-specific wastewater treatment systems are to be included.
- 7.7.6. I note the 3<sup>rd</sup> party appellants argued concerns that the water percolating from the additional 'septic tanks' will negatively impact the environmental health of the local stream. In response, I note the clarification distinguished by the applicant that no 'septic tanks' are to be provided with the proposed dwellinghouses, as these are not compliant with the EPA Guidelines. Rather, the 'packaged wastewater treatment systems' (eg. O'Reilly Oakstown Effluent Treatment System) and 'polishing filter' recommended consequent of the site specific "Site Characterisation Report", thereby ensuring compliance with the EPA Code of Practice – Waste Water Treatment

Systems for Single Houses (2009). Accordingly, no serious pollution of nearby water courses will result.

- 7.7.7. I am satisfied as to the capacity of the application site generally, and each of the 4no. individual sites' ground and soils characteristics, to facilitate on-site effluent treatment and disposal without disproportionate threat to public and environmental health, subject to compliance with the recommendations contained within the site characterisation report. In this regard, I note that neither the County Water Services Section or Irish Water expressed any objection to the proposed waste water treatment system arrangements.

## 7.8. **Archaeological Heritage**

- 7.8.1. The Department of Culture, Heritage, and the Gaeltacht – DAU confirm the application site's location "in the vicinity" of a 'Holy Well'- located to the east along Tobersool Lane, and an 'Enclosure of Archaeological Interest' – located to the southwest adjacent the M1 reservation (Recorded Monuments No.DU001-001 and DU001-009) respectively. See attached Fingal County Development Plan 2017-2023 Map Sheet No.4 Balbriggan – "Zoning Objectives" and "Specific Objectives". These therefore, are subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act – 1994.
- 7.8.2. Should permission be granted for the proposed development, the Department recommended that a Condition be attached requiring 'Pre-Development Testing'.
- 7.8.3. Notwithstanding the specifics of the recommendation by the Department regarding 'pre-development testing', I reference that should 'outline' planning permission be granted for the 4no. dwellinghouses proposed, new applications for permission consequent to the grant of 'outline' permission will be required for the individual sites. Therefore, noting the modest nature, scale and intensity of the proposed residential development, and to the separation distances from each of the 'Recorded Monuments' of c.300m to the southwest and c.500m to the east respectively, I am rather inclined to the view that a Condition requiring archaeological monitoring during all subsurface works, is preferable to that requiring 'pre-development testing' / 'test trenching'. In my view, such an alternative is consistent with and would achieve the

same precautionary approach recommended by the Department, whilst having regard to the unique circumstances and merits of the current application. In my view, mitigation of adverse archaeological impact, in the development of the application site, would be sustained.

- 7.8.4. In this regard, I share the opinion as concluded by the Planning Authority, in their assessment.

Condition No.4 attached to Schedule 1 of the Planning Authority decision to grant 'outline' permission, requires archaeological monitoring during all sub-surface works. In my view the archaeological concerns raised by the Department of Culture, Heritage, and the Gaeltacht – DAU, are appropriately and satisfactorily covered by Condition No.4.

## 7.9. **Appropriate Assessment**

- 7.9.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a rural environment, and to the separation distance and absence of a clear direct pathway to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that 'outline' planning permission be granted for 4no. detached dwellinghouses with associated car-parking and on-site waste water treatment systems, for the reasons and considerations as set out below.
- 8.2. I recommend that planning permission be granted for all associated ancillary site works necessary to facilitate the development, including a new vehicular entrance and internal road from Tobersool Lane, landscaping and boundary treatment, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the zoning Objective “Rural Cluster” for Tobersool as set out in the Fingal County Development Plan 2017-2023, and to the pattern of residential development in the area, it is considered that, subject to compliance with the Conditions set out below, the proposed development would be in accordance with the relevant provisions of the County Development Plan 2017-2023, would not seriously injure the amenities of the Tobersool ‘Rural Cluster’ or of property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1. This ‘outline’ permission relates solely to the principle of the development on this site, and it shall not be construed as giving consent to the following matters :
  - (a) The overall site layout of the development.
  - (b) The design of the dwellinghouse to be developed.

**Reason:** In the interest of clarity.
  
2. Plans and particulars shall be lodged with, and approved by the Planning Authority, as a permission consequent of this grant of ‘Outline’ planning permission. These shall include :
  - (i) A boundary treatment and a landscaping plan for the site, to include retention of existing mature trees and boundary planting.
  - (ii) Details relating to design, orientation, layout, height and external appearance of the proposed dwellinghouse. These design proposals shall have regard to the design and character of the built environment in the vicinity.

- (iii) Details and layout of the proposed connection into the public sewerage network.
- (iv) Details of the onsite drainage and disposal of surface water in compliance with Sustainable Drainage Systems (SUDS).
- (v) Details and specifications for the new vehicular entrance off Chapel Pass onto the site.

**Reason:** In the interest of clarity and to define the subject matter for decision at the permission consequent of 'outline' planning permission stage.

3. At the permission consequent stage, water supply and wastewater drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health.

4. At the permission consequent stage, physical infrastructure and servicing arrangements to enable the proposed development, including the new vehicular entrance off Chapel Pass laneway, shall comply with the requirements of the Planning Authority for such works and services.

**Reason :** In the interest of public health, traffic safety and orderly development.

5. The proposed dwellinghouse on this site, shall not be occupied until such time as the new vehicular entrance off Chapel Pass, and inclusive of front boundary treatment, is completed to the satisfaction of the Planning Authority.

**Reason :** In the interest of orderly development.

6. All service cables associated with the proposed development (including electrical, television, telephone and broadband) shall be run underground within the site.

**Reason :** In the interest of visual amenity.

7. At the permission consequent stage, the developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason :** It is a requirement of the Planning and Development Act 2000, as amended, that a Condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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L.W. Howard  
Planning Inspector

15<sup>th</sup> March 2018