



An
Bord
Pleanála

Inspector's Report ABP-303418-19

Development

Alterations to previously approved residential development of 34 no. houses under Reg. Ref. F14A/0483 and An Bord Pleanála PL06F.245240

Location

Clairville Lodge, Careys Lane, Malahide, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F18A/0579

Applicant(s)

Declan Fleming.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Declan Fleming.

Observer(s)

1. Declan and Karen O'Malley
2. Clairville Lodge Residents Action Group.

Date of Site Inspection

02nd of April 2019

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site is a residential development, nearing construction, accessed directly from Carey's Lane, Malahide, Fingal. The surrounding area is characterised by large dwellings located within their own sites, accessed from Streamstown Lane and parallel with Careys Lane.
- 1.2. The residential estate includes 34 no. dwellings, all completed, with planning permission for a crèche and associated access, adjoining the designated open space to the south west of the site. The open space area was being landscaped upon site inspection and no works have commenced on the area allocated for the crèche.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - 1) Alteration to previously approved residential development (PL06.245240 Reg Ref F14A/0483) for the provision of 3. no additional houses to the south of the site to provide a total 37 no. houses.
 - 2) Omission of crèche facility and associated parking area previously approved,
 - 3) All other associated development.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse for 5 no reasons which are summarised as follows:

1. Part of the site is zoned as RA- Residential Area which seeks to "Provide for new residential communities subject to the provision of the necessary social and physical infrastructure".

The application forms part of the Streamstown Local Area Plan 2009 which has been extended until 09th of Feb 2019.

Under Section 5.1.3 “Childcare Facilities a minimum of two childcare facilities are to be provided in accordance with the Childcare Facilities Guidelines and in consultation with the Planning Authority.

The proposal includes the omission of a stand-alone crèche and replaced with open space.

The proposal would contravene objective PM76 due to the removal of necessary social infrastructure.

2. Objective WT12 of the development plan states that an appropriate buffer of a minimum of 35-50m around pumping stations is required to avoid nuisance from odour and noise.

The applicant is proposing to put housing within 15m of the proposed pumping station and is therefore contrary to Objective WT12 of the development plan and would be prejudicial to public health.

3. The Streamstown LAP includes an indicative area around Streamstown House to indicate the onsite residential amenity is to be protected. The proposed development would lead to overlooking and have a negative impact by way of scale and height.

The proposal would have a negative impact on the residential amenity of the occupants of Streamstown House.

4. The change in layout will have a negative impact on the layout of the open space where it is accessible to all without having to cross a road.

The proposed open space will dissect this and result in piecemeal, fragmented and less useable open space.

5. Under Condition No 12 PL06F.245240 (Reg Ref F14A/0483) the area for open space shall be reserved and used for such use and the area shall be kept free from any development and not incorporated into house plots and shall be maintained as public open space by the development until taken in charge by the local authority.

The proposed development would contravene an existing permission for development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and is summarised below:

- The Streamstown LAP includes part of the lands as “indicative open space” and the adjoining dwelling has a circle inserted for “on-site residential amenity protected”.
- The rear depth of the proposed houses is only c. 9m and therefore a separation distance of 22m cannot be achieved.
- The design and location of the dwellings would have a negative impact on the character of Streamstown House.
- The provision of the dwellings would lead to the dissection of the open space and make it less useable.
- Planning permission F17A/0208 permitted a pumping station on the site and the proposed dwellings would be located at a distance of less than 15m which is contrary to Objective WT12 which requires a minimum distance of 35-50m.
- Condition No 12 of F14A/0483 requires the open space area to be kept free from development.
- The omission of the crèche facility is not acceptable as the Streamstown LAP requires the provision of two crèches for the total area.
- The subject site is centrally located and best served for the location of a crèche.
- Under the Streamstown LAP a total of 179 houses is expected, therefore the crèche is required.

3.2.2. Other Technical Reports

Transport Section- No objection to proposal.

Parks Division- Concerns raised over the treatment of the open space.

Drainage Department- Request for additional information.

3.3. Prescribed Bodies

Irish Water- Further Information required on the set back from the pumping station and the pre-connection enquiry.

3.4. Third Party Observations

12 no. submissions received from residents in the vicinity of the site and the issues raised are similar to those submitted with observations to the planning application as summarised below:

- There is a need for the crèche and the existing facilities currently have waiting lists.
- The developer has not complied with all the conditions of the parent permission including the public lighting, landscape plan, and boundary treatment, treatment of the stream / river and the provision of the playground.
- Streamstown Road and Carey's Lane are extremely dangerous and used as a rat run for those avoiding the traffic lights.

4.0 Planning History

Appeal Site

ABP301848-18 (Reg Ref F18A/0151)

Permission granted for alterations to 45 no. houses within a previously granted residential estate. Condition no. 3 and 4 specifically linked the completion of the development to the parent permission as amended by other permissions.

Reg. Ref. F17A/0208

Permission granted for alterations to permitted development, comprising the provision of two additional houses, changing of house types, repositioning of houses and roads and associated development.

Reg. Ref. F17A/0177

Permission granted for alterations to permitted development, comprising elevation changes.

Reg. Ref. F16A/0424

Permission granted for alterations to permitted development comprising various design changes.

PL06F.245240 (Reg. Ref. F14A/0483)

Permission granted for the construction of 32 no. detached dwellings, crèche and associated development.

Condition No 3- Submission of revised drawings to require alterations to the internal road, access to the northern site, rear boundaries and relocation of proposed ESB substation.

Condition No 12- *“The areas of open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled and seeded, to a degree which maximises their use and potential and which is acceptable to the planning authority. This work shall be completed before any of the dwellings are made available for occupation. The open spaces shall be kept free of any development, shall not be incorporated into house plots and shall be maintained as public open space by the developer until taken in charge by the local authority.”*

Adjoining Site to the east to the rear of Shadowlands

F17A/0548 (subsequent alterations F18A/0332)

Permission granted for 8 no dwellings to the rear of an existing detached dwellings.

5.0 Policy and Context

5.1. Childcare Facilities Guidelines for Planning Authorities (2001)

5.2. **Fingal Development Plan 2017-2023**

The appeal site is zoned ‘RA’, to provide for new residential communities subject to the provision of the necessary social and physical infrastructure.

It is also within a designated Masterplan area.

Objective MALAHIDE 11 is to prepare and/or implement the Streamstown Masterplan during the lifetime of this Plan. (Map Sheet 9, MP 9.A). It includes

guidance on the main elements to be included in the Streamstown Masterplan which is not exhaustive.

Open Space

Section 12.7 of the development plan provides guidance on the overall quantum required and the appropriate design and layout of open space and states that fragmented open spaces within a development layout may not be included in the calculation of open space requirements.

Objective DMS57A of the development plan requires the provision of 10% of the proposed development site to be used as public open space.

Childcare

Objective PM74 - Encourage the provision of childcare facilities in appropriate locations, including residential areas, town and local centres, areas of employment and areas close to public transport nodes.

Objective PM75- Ensure that childcare facilities are accommodated in appropriate premises, suitably located and with sufficient open space in accordance with the *Childcare (Pre-School) Services) (No. 2) Regulations 2006*

Objective PM76- Require as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority

Wastewater Treatment

Objective WT11- Establish a buffer zone around all wastewater treatment plants suitable to the size and operation of each plant. The buffer zone should not be less than 100m from the odour producing units

Objective WT12- Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.

5.3. **Streamstown Local Area Plan 2009-2014**

The appeal site is located within the area subject to the provisions of the Streamstown Local Area Plan 2009-2014, the life of which has been extended to February 2019

Section 5.3.2 Central Settlement Quarter

The Central Settlement Quarter is predominantly bounded by residential properties, either within or adjacent to the Local Area Plan boundary. One of the primary aims of new development in the Central Character Area is to ensure the residential amenity of these existing properties is not adversely affected.

Access to this Quarter will also be from Carey's Lane, with pedestrian and cycle links also connecting this area to the Malahide Road.

Section 5.1.3 Childcare Facilities

A minimum of two childcare facilities are to be provided, in accordance with the standards set out in the Childcare Facilities Guidelines, and in consultation with the Planning Authority.

9.8 Phasing of Development

Two childcare facilities are to be provided, at locations so as to serve the entire Local Area Plan, in consultation with the Planning Authority

Key Principles - Amenities and Facilities

Class 2 Public Open Space is to be provided, along with two childcare facilities, at locations so as to serve the entire Local Area Plan, in consultation with the Planning Authority.

5.4. **Natural Heritage Designations**

The site is located 1.8km south of Malahide Estuary SAC (Site Code 000205) and SPA (004025) (also known as Broadmeadow/Swords Estuary SPA) and c. 1.8km to the north, and Baldoyle Bay SPA and SAC (Site Codes 004016 and 000199, respectively).

5.5. EIA Screening

Having regard to the nature and scale of the proposed development, and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from agent on behalf of the applicant and the issues raised are summarised below:

Background

- A synopsis of the planning history is provided.
- Details of the relevant planning history in the vicinity of the site is provided.
- A background on the proposed development, including reference to the house types etc is provided.

Planning Context

- The site is zoned as RA in the Fingal County Development Plan 2017-2023 and the objective and vision for development on these lands is provided.
- The site falls within an area marked as MP 9.A on the zoning map (Masterplan Area 9.A Streamstown area) where it is an objective to implement the Streamstown and Broomfield Masterplan. This Masterplan has not commenced yet.
- Relevant strategic policies from the development plan are provided which support the growth and development of Malahide and surrounding area.
- The design criteria for residential development is included in chapter 12 of the development plan which the proposal complies with national guidance.

- Objective PM 74, 75 & 76 of the development plan provides guidance for proposals for childcare.
- The Streamstown Local Area Plan 2009-2019 identifies part of the site for additional housing, part for open space with a road and pedestrian link through both.
- National and Regional Policy on residential development is included.

Childcare- Reason for Refusal 1

- The proposed omission of the crèche is in compliance with the guidelines which requires one crèche per 75 dwelling and only 37 no dwellings are being provided.
- There is sufficient capacity within the 5 no crèches within a 5 km radius of the site.
- The applicant cannot get sufficient interest for an operator for the site (4 letters of refusal from potential operators is included in the Appendix A).
- The reason for no interest from potential operators includes, insufficient houses, incorrect type of houses, location relative to public transport and access via existing road network.
- Section 5.2 of the Streamstown LAP requires the provision of two crèches in the entire plan area. Alternative locations in other appropriate settlement locations is included and refers to a northern location adjoining Malahide.

Pumping Station- Reason for Refusal No 2

- An Engineer's response is included with the grounds of appeal who noted the objective in the plan and referenced the provision of wastewater services by Irish Water and their Code of Practice for Infrastructure.
- Irish Water recommends the location of the pumping station 15m from residential properties.
- The existing pumping station is 21m from the western boundary of the semi-detached dwelling and an extension of the vent pipe 5m west would increase the separation distance to 29m.

- The existing pumping station is 5m from the western boundary by extending the vent pipe 5m west increasing the separation distance to 15m.
- Therefore, the risk of odour and nuisance is minimised.
- The engineer also referenced the consideration of a chemical dosing plant to further mitigate the issues associated with water and waste water and a Schedule of Conditions is recommended.

Streamstown House- Reason No 3

- The proposed development follows the correct procedures for separation distances e.g. 22m between directly opposing windows and a minimum rear garden depth of 11m.
- The lands to the north of Streamstown House have been identified for development in the LAP.
- The dwellings are located outside the buffer around the house, in the LAP.
- There is a significant number of trees within the boundary of Streamstown house and it is proposed to provide additional planting within the subject site.
- Permission F18A/0332 includes 8 no. 2 storey dwellings to the northeast of Streamstown House.

Open Space Provision- Reason No 4

- Chapter 3 includes 6 specific objectives relating to the provision of open space which the proposal complies with.
- The public open space requirement is 12.9% and the provision will equate to 26.6%.
- The design of the open space will compare to pocket parks, permitted in the development plan.

Condition No 12. Reason No 5

- There is a sufficient amount of open space to support residential amenity and the proposal, including an additional 3 no. dwellings, will not significantly alter the open space provision.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

A response was received from the planning authority which is summarised below:

- The plan was assessed against the Streamstown LAP and other government policies.
- The matter in the appeal have been addressed in the planner's assessment.
- The omission of the crèche is premature based on the undeveloped lands to the north proximate to Auburn House.
- The Planning Authority is the body for determining planning applications not Irish Water and the Irish Water standards do not supersede the development plan polices, therefore the separation distance stated in Objective WT12 is applicable.
- The submitted revisions would lead to poor open space layout and associated infrastructure.
- Should the Board not uphold the decision to refuse it is requested that an amendment to the location of the sub-station and associated access is undertaken. It should be relocated northwards, and face onto Carey's Lane with the public footpath raised to form a crossover.

6.4. Observations

Two observations where received , the first from the residents association of the existing residential estate and the second from the residents of a dwelling in the vicinity and the issues raised are similar and have been summarised and combined into common themes below:

Procedural

- Under Section 37(2) (iv) of the Act, the Board is precluded from granting permission as the planning authority have deemed that the proposed

development would materially contravene the policies and objectives of the development plan.

- The submission of two different applications for housing on the site will avoid the necessity for Part V.
- Under Section 35 of the Act, the Board may also refuse an application based on non-compliance of a previous permission and it is noted that the open space was meant to be completed and available prior to occupation of the first dwelling. This has not happened and the space is unfinished and used as a building compound.
- The applicant is not the owner of the site and should not be entitled to make the application.

Open Space

- The permitted open space was identified as Flood Zone A and B and the original application was amended to consider these zonings and designated the space for open space.
- The removal of the open space will significantly reduce the value and amenity space for the residents.
- Those persons who bought house in the estate had a contract for the provision of this amenity space.
- There are young families within the estate who may wish to use the crèche.
- Section 5.1.2 of the LAP states that the provision of Class 2 open space should be space, overlooked and function as a useable area for children's play.

Development Plan Policies

- The RA zoning requires the provision of residential development and associated physical infrastructure.

Streamstown LAP

- The LAP was extended until Feb 2019 although to date there has been no public notice for the preparation of a new plan.

- The LAP promoted a low density suburban quality housing environment.
- The site is located within the central quarter, with specific design guidance in Section 5.3.2.
- Section 6.1 deals with the residential density and requires 10 dwellings to the hectare (Table 3).
- The site is quasi- rural and not located close to any public transport which would deem higher density.
- There is no public open space facilities in the vicinity which makes it more important that the open space is retained.

Childcare facilities

- The LAP requires a minimum of two crèche facilities in the plan area.
- The crèche can accommodate all age groups of children.
- It is not acceptable that accompanying letters from existing crèche operators in the vicinity, who have capacity, is appropriate.
- The crèche facilities are to accommodate a growing population in the LAP.
- The guidelines refers to one crèche per 75 dwellings and there is sufficient capacity based on the existing geographical distribution of childcare facilities (breakdown of capacity submitted)

Planning History

- Condition No 11 (b) and 12 require the provision of a play area and open space, made available prior to the occupation of any dwelling.
- There has been no compliance from Part V on the file.
- The three houses are proposed on a flood plain (A & B) and therefore inappropriate.

Residential Amenity

- The design and location of the dwellings to the rear of an existing dwelling will cause overlooking and have a negative impact on Streamstown House.

- The rear elevation of the dwellings will be only c. 19.5m and not c. 22m as required.
- The existing “landscape buffer” referred to in the grounds of appeal is a single tree which the owner of Streamstown House plans to remove to facilitate an extension.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Childcare Facility
- Planning History
- Open Space
- Pumping Station Distance.
- Impact on Residential Amenity
- Appropriate Assessment

Childcare Facility

7.2. Planning permission was granted PL06F.245240 (Reg Ref 14A/0483) for 32 no dwellings and included an associated crèche, further detailed below. The site is zoned as RA, Residential Amenity, in the development plan where it is an objective to “*Provide for new residential communities subject to the provision of the necessary social and physical infrastructure*” and is located on lands designated as MP 9.A- Masterplan Area and within the Streamstown Local Area Plan (extended until 09th of February 2019). The review of this LAP has not been advertised.

7.3. The first reason for refusal relates to the removal of the crèche and includes reference to Section 5.1.3 of the LAP which states a minimum of 2 childcare facilities was required for the entire plan area.

7.4. The grounds of appeal, submitted from the applicant, states that this reason for refusal is not in keeping with the national “Childcare Facilities Guidelines for Planning Authorities” which requires one crèche per 75 dwellings. The appeal is accompanied by letters from local childcare facilities to state there is no demand in

the area for additional childcare spaces and the location of the proposed crèche away from public transport routes is inappropriate.

- 7.5. A submission from Fingal County Childcare Committee, to the appeal, refers to 20 registered Childcare facilities in the Malahide area. The “National Childcare Scheme” was released recently which provides greater access and greater affordability to Early learning and Care and School- Age Childcare in Ireland. No specific reference to the under or over provision of current spaces was included.
- 7.6. Observations to the appeal provide evidence in relation to the lack of available childhood spaces available for all age groups in the general vicinity of the site. Whilst I note reference to the available spaces, I do not consider the future population growth of the area has been sufficiently considered by the appellant.
- 7.7. The LAP objective to provide 2 childcare facilities relates to an area greater than the 32 no dwellings on the subject site, and is necessary social infrastructure for the future growth of the surrounding area. The new development lands illustrated in Map 6 of the LAP equates to 10.84 hectares and even with low density development of 20 to hectare there is potential for c. 200 dwellings.
- 7.8. The distance of the crèche from any public infrastructure is also referenced in the grounds of appeal. I note the location of the site and the objectives in Map 5 of the LAP- Site Opportunities and Constraints, which includes proposals for the upgrade of both the Streamstown Lane, to the south and Carey’s Lane, directly adjacent to the site. Therefore, I consider the crèche is in an appropriate location to serve the surrounding area.
- 7.9. Having regard to the land use zoning “RA” where it is an objective to “*provide for new residential communities subject to the provision of necessary social and physical infrastructure*” and the overall objectives in the LAP for future development, in particular Section 5.1.3 which requires the provision of 2 childcare facilities and supported in section 9.8, phasing, I consider the crèche should be retained at this location to support the future growth of the surrounding area.

Planning History

- 7.10. The proposed development includes amendments to the quantum and configuration of open space within a housing estate which is nearing completion. The parent permission PL06F.245240 (Reg Ref 14A/0483) was granted for 34 no. detached

residential dwellings a crèche and associated works. Subsequent amendment applications, F17A/0208 (additional 2 dwellings), F17A/0177 and F17A/0208 and 301848-18 (Reg Ref F18A/0151) have been granted for alterations to the original permission. The total dwellings permitted is 34 no. and includes the crèche. Three additional dwellings are proposed in the designated open space behind Streamstown House.

- 7.11. The fifth reason for refusal relates to the Condition No 12 of the parent permission, detailed below, and considered that the proposal materially contravened a condition attached to an existing permission of development;
- 7.12. *“The areas of open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled and seeded, to a degree which maximises their use and potential and which is acceptable to the planning authority. This work shall be completed before any of the dwellings are made available for occupations. The open spaces shall be kept free of any development, shall not be incorporated into house plots and shall be maintained as public open space by the developer until taken in charge by the local authority.”*
- 7.13. The restriction on the incorporation of the open space into the house plots was specifically included as an addition by the Board and therefore Condition No 12 is not to be treated as a standard condition. Whilst the reasoning for this additional reference is not listed in the Board Order, it is reasonable to assume that the scale and quality of open space provision was to be retained as part of the overall scheme, further discussed below.
- 7.14. The applicant also refers to non-compliance with Condition No. 11b which states that *“The specification and details of the playground equipment. This playground shall be completed prior to the making available for purchase/letting of any dwelling”*. I consider this a matter of enforcement for the planning authority.
- 7.15. Therefore, having regard to the specific reference to restrictions on the development on open space in Condition No 12, I consider the proposed development would materially contravene the conditions of an existing permission and therefore the use of this area for 3 no. additional dwellings is not acceptable.

Open Space

- 7.16. The proposal includes the removal and reconfiguration of open space, permitted under PL06F.245240 (Reg Ref 14A/0483), as detailed above, to accommodate the additional dwellings. The fourth reasonable for refusal relates to the proposed layout of the open space which the planning authority considered would result in piecemeal, fragmented and less useable open space.
- 7.17. Observations were received from existing residents of the Claireville Estate who are concerned the proposed open space will not be useable and reference planning conditions which state that the open space was to be provided prior to occupation of the dwellings. In addition, reference is provided to the inclusion of the area as open space in the original permission due to the flooding designation on the site.
- 7.18. Figure 6.14 of the Strategic Flood Risk Assessment (SFRA) which accompanied the Fingal Development Plan 2017-2023 illustrates part of the south of the site, are proposed for the dwellings, as Flood Zone A. I note there is currently a number of Areas of Further Assessment (AFAs) surround the site with Kinselay, to the south, being the closest and the area around the subject site is currently under review (www.floodmaps.ie). In addition, I note Section 10.5 of the Inspectors Report on the parent permission PL06F.245240 (Reg Ref 14A/0483) refers to the location of the houses and crèche outside the flood risk zones which will be designated as open space. Having regard to the SFRA of the development plan as the best available data, I consider the lands designated as open space should be retained.
- 7.19. The open space has been reconfigured to accommodate the additional 3 no dwellings and includes two smaller areas separated by an access road. Section 12.7 of the development plan provides guidance on the overall quantum required and the appropriate design and layout of open space and states that fragmented open spaces within a development layout may not be included in the calculation of open space requirements.
- 7.20. Objective DMS57A of the development plan requires the provision of 10% of the proposed development site to be used as public open space. The size of the site is 3.03ha and the proposed development includes the provision of 0.79 ha of open space (0.303 ha required). Whilst I note the remaining open space accounts for more than the required 10%, I consider the amended design of the open space provision is

substandard by reason of fragmentation and inadequate overlooking from the new dwellings and therefore does not comply with the guidance in the development plan.

- 7.21. Having regard to the location of the open space in the parent permission to utilise lands designated as Flood Zone A in the SFRA and the provision of a design which I consider is substandard I do not consider the removal and reconfiguration of the open space is acceptable.

Pumping Station Distance

- 7.22. The new dwellings in the proposed development are located 5m from the existing pumping station permitted for the development in Objective WT12 of the development plan states that an appropriate buffer zone around all pumping stations is required and should be a minimum of 35m to 50m from the noise/ odour producing part of the pumping station in order to avoid nuisance from odour and noise.
- 7.23. The second reason for refusal refers to the distance of the proposed dwellings from the pumping station in relation to Objective WT12 of the development plan. The grounds of appeal draw attention to the role of Irish Water as the statutory authority for the provision of both water and waste water and the information contained within the Irish Water Code of Practice for Wastewater Infrastructure (Revision 1 issued in December 2017) which states that medium pumping stations (Type 3) should be located no closer than 15m to a property boundary (extracts from Part 5 included).
- 7.24. An Engineers report accompanied the appeal statement which states that separation distances can be met as required by Irish Water and is accompanied by illustrations of the proposed pumping station adjoining the proposed pumping station. A submission from the Planning Authority highlights the objectives in the County Development Plan, a statutory document, and considers the distances in the plan are applicable for the purposes of planning applications, which I consider reasonable.
- 7.25. The location of the proposed adjoining dwelling 5m from the boundary of the pumping station is contrary to the guidance in the development plan, Objective WT12, and to permit development would have a negative impact on the amenities of the future residents of those proposed dwellings and would set an undesirable precedent for similar proposals.

Impact on Residential Amenity

- 7.26. The additional dwellings are located to the rear of an existing dwelling along Streamstown House and an observation received considered the additional dwellings would cause overlooking and have a negative impact on the residential amenity.
- 7.27. The dwellings are located 22m from the rear of the existing dwelling. Objective DMS28 of the development plan requires the provision of a minimum of 22m from first floor opposing windows. Map 5 of the Streamstown Local Area Plan "Site Opportunities and Constraints" includes a designation around the existing Streamstown House as "*on-site, existing residential amenity to be protected*", which is generally in keeping with the boundary treatment of the existing dwelling.
- 7.28. I note the location of the dwellings on the edge of the residential amenity designation and having regard to the location of the proposed dwellings from the rear I do not consider the proposed development would have a significant negative impact on the amenity of those existing residents.

Appropriate Assessment

- 7.29. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The proposed development includes the omission of a crèche facility which forms part of residential development for 32 no. dwellings granted permission under PL06F.245240 (Reg Ref 14A/0483) and subsequently amended under F17A/0208 for an additional 2 no. dwellings. The subject site is located on

lands zoned as RA, where it is an objective to “*provide for new residential communities subject to the provision of the necessary social and physical infrastructure*” and is within the central quarter of the Streamstown Local Area Plan 2009. Section 5.1.3 of the LAP requires the provision of two childcare facilities for the entire plan area. The removal of the childcare facility would mitigate against the provision of the crèche required in the LAP, would be contrary to the zoning objective which requires the provision of social infrastructure and therefore, would be detrimental to the amenities of the existing and future residents of the area. The proposed development would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would, by reason of removal of open space provision for a residential development, contravene materially a condition attached to an existing permission for development namely, condition number 12 attached to the permission granted by An Bord Pleanála under planning permission PL06F.245240 (Reg Ref 14A/0483).

3. The proposed development includes the positioning of three additional dwellings and an access road within the existing designated open space for a residential development. The subject site is located on lands designated as Flood Zone A in the Strategic Flood Risk Assessment (SFRA) of the Fingal County Development Plan 2017-2023, this area is currently subject to review. Section 12.7 of the development plan provides guidance on the design of open space where fragmented open space will not be considered for the calculation requirements. The location of the proposed dwellings and the access road, and the inadequate overlooking on the remaining designated open space will cause fragmentation, lead to the sub-standard provision of open space which will have a negative impact on the amenities of the existing residents in the surrounding area.

4. Objective WT12 of the Fingal County Development Plan 2017-2023 states that an appropriate buffer zone around all pumping stations is required and

should be a minimum of 35m to 50m from the noise/ odour producing part of the pumping station in order to avoid nuisance from odour and noise. The proposed dwelling is located 5m from the edge of the pumping station permitted under Reg Ref 17A/0208, therefore the proposed development is contrary to Objective WT12 of the development plan and to permit development would have a negative impact on the amenities of the future residents of those proposed dwellings and would set an undesirable precedent for similar proposals.

Karen Hamilton
Planning Inspector

15th of April 2019