



An
Bord
Pleanála

Inspector's Report ABP-304904-19

Development

Development of strategic open spaces, upgrades to the public road, reconfiguration of the car park serving Smyth's Bridge House (A Protected Structure), upgrade of existing entrance onto Main Street, new access from Balcarrick Road, internal access roads, water services and a pumping station, and utilities. Planning permission is sought for 10 years.

The application was accompanied by an EIAR and a Natura Impact Statement.

Location

Lands to the south of Main Street and Balcarrick Road (R126), Corballis East, Donabate, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F18A/0618

Applicant

Aledo Donabate Limited

Type of Application

Permission

Planning Authority Decision

Grant permission (19 no. conditions)

Type of Appeal	Third Party
Appellants	Donabate Portrane Community Council
Observer	John Lovatt
Date of Site Inspection	02/10/2019
Inspector	Conor McGrath

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1.0 Site Location and Description

The subject lands comprise a total of 42.76ha, located in Corballis East to the south-southeast of Donabate town centre. The lands are currently in agricultural use and comprise two areas separated by the Donabate Distributor Road running east-west through the lands, which road is currently under construction. The lands are irregular in shape, being bounded generally by Balcarrick Road and The Strand residential estate to the north and by agricultural lands to the east. The Dublin – Belfast railway runs along the western site boundary beyond which new residential development is under construction. Corballis Cottage Road bounds the lands to the south and separates the site from the Broadmeadow / Malahide estuary (SAC / SPA). The lands are provided with direct access and frontage to the town centre through lands adjoining Smyth's Bridge House, a protected structure just south of Donabate railway station.

The lands are generally open, rising from approx. 2m OD at Corballis Cottage Road / Malahide Estuary to the south, to approx. 21m OD at the northern boundary of the lands. Within this slope there are two ridges running east-west, with lower ground in the intervening area. From the northern ridge, ground levels fall again toward Balcarrick Road. There is a limited network of internal field boundaries on the site although there are established hedgerows along external boundaries. Several field drains drain the lands to the east and south.

2.0 Proposed Development

The proposed development comprises roads, water and drainage services and open space / amenity infrastructure to facilitate the subsequent development of these zoned lands for residential, community and ancillary uses. In particular, the development comprises the following:

- Internal access roads, comprising a hierarchy of 2,250m of Linking Roads and 4,680m of Local Access Roads, served primarily by two new entrances from the Donabate Distributor Road to the south and southeast, along with a new access from Balcarrick Road to the north.

- Provision of strategic open spaces, comprising a Nature Park of 13.55 ha on the southern part of the lands south of the Donabate Distributor Road and 3 no. additional areas of public open space within the northern portion of lands.
- The installation of water, wastewater and surface water infrastructure to serve the future development of these lands, including a wastewater pumping station located to the east of Donabate Distributor Road. The surface water drainage network includes the development of a wetland area in the southern Nature Park.
- Reconfiguration of the existing car park serving Smyth's Bridge House (protected structure), to accommodate pedestrian, cyclist and limited vehicular access to lands to the south, 46 no. replacement car parking spaces, improvement of the existing entrance onto Main Street and the upgrade 140m of Main Street including the junction with Balcarrick Road.

Planning permission is sought for 10 years. The application was accompanied by an EIAR and a Natura Impact Statement. The application documentation also included an indicative Masterplan for the future residential development of the lands.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, the planning authority sought further information in relation to a number of matters. The planning authority subsequently decided to grant permission for the proposed development subject to 19 no. conditions, including the following:

2. Prior to the commencement of development, a fully detailed phasing plan shall be submitted for agreement with the planning authority, including:
 - a) Road BL12, including pedestrian and cycle facilities, car parking, landscaping and public space areas in the vicinity of Smyth's Bridge House shall be constructed in the first phase of development. The urban design plan for this area shall be in accordance with the details submitted on 23rd April 2019.

The Nature Park shall commence in conjunction with Phase 1 and the strategic landscape mitigation area to the south of The Strand estate.

- b) Road BL01 and roads to the west of this road shall be provided in Phase 2. No housing on foot of separate planning applications shall be occupied in advance of completion and transfer of the Nature Park to Fingal Co. Co.
 - C) Full details of all subsequent phases of development are to be provided. No phase shall provide more than 150 no. housing units.
4. The developer shall submit a revised Masterplan for agreement which includes all the amendments received by way of further information on 23/4/2019.
8. The developer shall submit plans for play provision in accordance with development plan objectives and to provide a financial contribution toward the provision and development of play facilities in Newbridge Demesne.
9. Nature Park:
- a) Locate the wheat and millet sacrificial crop for birds in the north western corner of the park.
 - b) Provide a fenced off off-leash dog area adjoining this crop area.
 - c) Natural play ground / trail to be provided in northern section of the park.
 - d) The fenced off cattle grazing area shall be increased and extended to the north and east of the site. The woodland area in the southeast of the site to be reduced in width to a linear section of woodland.
 - e) The woodland area along the southern boundary shall be omitted to allow birds unobstructed views as they enter the park from the south.
 - i) Boundary with the railway shall comprise a 2.4m high solid bar railing
 - k) Cycle paths shall be 4m wide with bollard lighting. Pedestrian paths shall be 2.5m wide and tarmacadam.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The development is acceptable in terms of the LAP zoning objectives. While this application will meet most of the Phase 2 and 3 requirements, residential phasing will still adhere to the provisions of the LAP.

The applicant's proposals for delivery of the Nature Park over 62 weeks is noted. Further details may be required to demonstrate that a continuous project will not negatively impact on the designated lands. It is unclear whether the necessity for establishment of the Nature Park concurrently with infrastructural works will delay early completion of the Nature Park. The PA require delivery as early as possible.

It is likely that public transport services will improve as demand in the area increases. Electrification of the train line will significantly improve capacity.

The application clearly sets out the layout for these lands without permitting any houses. This is similar to an outline permission where the principle of development is established, and subsequent applications can determine house design within each area. The LAP seeks to control development by limiting applications to not more than 150 no. units. A condition that the phasing be agreed is appropriate. The Nature Park will be completed in conjunction with Phase 1, but this will take time to complete.

The total 14.795ha of public open space will allow the development of over 1,000 dwelling units. Housing applications will have to include 10% of site area as open space.

3.2.2. Other Technical Reports

Water Services: No objection subject to conditions.

Parks: While the nature park 13.63ha comprises Class 1 open space, 1.075ha of this was previously provided under F17A/0113. The development plan does not accept provision of surface water storage under areas of public open space. the development will require 2.933ha of Class 2 open space, necessitating 0.4249ha of additional space in subsequent residential applications.

Detailed information on how the development plan open space and play requirements will be met has not been provided. A condition in this regard is recommended to include a financial contribution toward any shortfall in provision.

Recommended amendments to the Nature Park are identified. A landscape plan for the area adjoining Smyth's Bridge House shall be agreed, including public art.

Conservation Officer: The initial design and layout of development adjoining Smyth's Bridge House (PTS) were poorly considered. Further information makes minor changes to parking layout. There are some improvements at the entrance from Main St., but random pockets of oddly shaped parking remain. The appropriateness of a private agreement to provide 44 no. parking spaces in this area should be considered. The scheme is acceptable. Much of the layout is indicative and the viability of the planting scheme should be reviewed. Where significant changes to landscaping are required, the appropriateness of the parking provision would be subject to review. Roads and parking must be delivered in tandem with landscaping in the first phase of development.

Transportation: The access junctions from the Donabate Distributor Road are to be constructed by Fingal Co. Co. The internal road layout is generally in accordance with DMURS and initial reports identified a number of revisions to the layout. Long-term road impacts on the village would be minimal as primary access would be from the DDR. Parking for Smyth's Bridge House should be reconsidered to address potential conflicts.

The further information response was acceptable subject to conditions, with certain final design details to be agreed.

Parks Biodiversity Officer: The project may adversely impact on the Malahide SAC and SPA. Development of the Nature Park is required to avoid water quality and disturbance impacts and must be carried out prior to development on the site as required in the LAP. Additional mitigation measures should be included in the AA document, comprising

- completion of the park prior to other development works,
- park development works to take place outside the migratory bird season, and
- the document should indicate how the park will be delivered.

Fingal Co. Co. Property Services Division: Consent to the inclusion of lands in the application for upgrade at Main St. and Balcarrick Road.

3.2.3. Prescribed Bodies

Transport Infrastructure Ireland (TII): No observations to make.

Iarnród Eireann: The application boundary includes lands in the ownership of CIE and should be revised. Regard should be had to the existing drain at the crest of the railway cutting. Adequate separation should be provided between works and the railway cutting to eliminate risk to the railway. Other conditions recommended.

Development Applications Unit, Dept. of Culture Heritage and the Gaeltacht: Conditions recommended relating to archaeological aspects of the development.

Irish Water: No objection subject to conditions. The applicant must divert the rising main to the proposed Ballalease Pump Station following its commissioning.

NTA: Support the development in principle. Concern that the access onto Main St. adjacent to Smyth's Bridge House is poorly sited and may give rise to vehicle conflict. Other entrances are sufficient to cater for the development. Removal of through traffic from this junction would provide a high-quality pedestrian / cycle link, catering for the volume of movements which will be concentrated at this location. A toucan crossing should also be provided at this junction linking to the station and Main St.

3.3. Third Party Submissions / Observations

A number of third-party observations on the application were received by the planning authority. The submissions are generally reflected in the third-party appeal and observation on this case.

4.0 Planning History

PA ref. F17A/0113

Permission granted for the construction of 196 houses, 62 apartments and a creche, on lands at Hearse Road, on the western side of the railway. The development also included 1.075ha of the proposed Nature Park, immediately adjoining the railway

line, as part of its public open space obligation. This development is currently under construction.

- Condition 6: Phasing plan to be agreed to include the provision of a new pedestrian and cycle bridge over the railway line prior to final sale and occupation of houses.
- Condition. 13: Timeframe for transfer of the lands within the proposed nature park to the local authority to be agreed.

Note the pedestrian bridge referenced in condition no. 6, links into the site of the subject appeal, to the south of the Smyth's Bridge House site.

ABP ref. ABP-304289-19

Strategic housing application seeking permission for amendments to the residential development permitted under Reg. Ref: F17A/0113, to replace 35 no. houses and 62 no. apartments with 174 no. apartments and associated site works. (The associated consultation case ref. is ABP-303228-18).

Permission was refused in August 2019 for the following reasons:

“.....The proposed development, by reason of its blanket approach to height, campus style building layout, dominance of carparking and lack of legibility/wayfinding between the proposed bridge and Newbridge Demesne, does not represent a satisfactory urban design response for the site, and does not enhance the character of the area or adequately recognise the cultural context and special setting of Newbridge Demesne. Furthermore, the proposed development would not be in accordance with the Design Manual for Urban Roads and Streets. As such the proposed development would be contrary to Ministerial guidelines, would not be consistent with national and local policy”.

PA ref. F17A/0373 ABP ref. PL06F.249206

Permission granted on appeal in April 2019 for a development of 151 no. residential units and 1 no. creche on lands on the northern side of New Road / Balcarrick Road, to the northeast of the appeal site. These lands are served by the Donabate Distributor Road.

ABP ref. PL06F.KA0018 PL06F.HA0031

Approval granted in 2011 for construction of the Donabate Distributor Road.

This approx. 4km road runs from the R126 at Portrane Road on the north-eastern side of Donabate, to Hearse Road on its southwestern side. The road bisects the two areas of the subject appeal site. This road is substantially complete.

5.0 Policy and Context

5.1. Local Policy

5.1.1. Fingal County Development Plan 2017 – 2023

With regard to new residential zoning, the emphasis in this Plan is to continue to consolidate the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.

Donabate is identified as a Moderate Sustainable Growth Town within the Metropolitan area. There was an identified residential capacity for 4,056 units on 116ha.

Objective SS17: Manage the development and growth of Malahide and Donabate in a planned manner linked to the capacity of local infrastructure to support new development and taking account of the ecological sensitivity of qualifying features of nearby European Sites.

Specific objectives for the town set out in Chapter 4 include:

Objective DONABATE 1: Prioritise the early construction of a Donabate distributor road, delivering a new railway crossing, providing alternative access to Donabate.....

Objective DONABATE 4: Develop a continuous network of signed pathways and cycleways as appropriate, around Donabate Peninsula linking Portrane and

Donabate to Malahide and Rush via the Rogerstown and Malahide Estuaries whilst ensuring the protection of designated sites,

Objective DONABATE 5: Provide for a comprehensive network of pedestrian and cycle ways linking residential areas to one another, to the town centre, schools, the recreational campus at Ballymastone and the railway station.

Objective DONABATE 10: Prepare and/or implement a Local Area Plan for Donabate providing for the structured development of the identified new residential areas such that they integrate into the established village and support the continued growth of a vibrant and attractive town for existing and future residents.

The plan notes that phase 2 of the delivery of public Metropolitan Area Networks (MANs) includes the town of Donabate.

Ecological Buffer Zones

The plan designates buffer zones, including the proposed Nature Park adjacent to Malahide/Broadmeadow estuary, to protect the ecological integrity of designated sites by providing suitable habitat for key species such as birds, by providing for compatible land uses around the sites. The buffer zones can provide for recreational uses and are also important for coastal flood protection and climate change adaptation. Agricultural uses may be combined with nature conservation and low-intensity recreational use such as walking and cycling.

Objective NH18: Protect the functions of the ecological buffer zones and ensure proposals for development have no significant adverse impact on the habitats and species of interest located therein.

Lands to the north of the Donabate Distributor Road are zoned RA: Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.

Lands to the south of the road are zoned HA: Protect and enhance high amenity areas and are identified as an Ecological Buffer Zone.

Objective NH51: Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

Objective NH52: Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics,

There are objectives to preserve views around the estuary.

5.1.2. Donabate Local Area Plan March 2016

Strategic aims of the LAP include:

- Provide a framework for a growing population with phased development of new housing in tandem with supporting community and physical infrastructure.
- Provide infrastructural investment to address traffic, pedestrian safety and movement challenges including the early delivery of a new road & bridge providing an alternative access to Donabate and Portrane.

The subject lands at Corballis East comprise part of one of four residentially zoned (RA) development areas in the LAP. At an approximate density of 35 / ha the LAP lands have overall capacity to accommodate approx. 4,000 units.

Section 3.5.3 sets out design principles for roads and streets within the LAP area. The use of shared surfaces is encouraged particularly relating to the area adjacent to Smyth's Bridge House.

Section 4 considers Green Infrastructure and identifies greenway / cycle and walking routes to be developed, including coastal routes and around the estuary, with indicative connections to Donabate village through the subject lands (objective 4.3).

The southern section of the appeal lands is identified as Corballis Nature Park. This area is to be managed as a natural landscape to ensure it continues to play host to a variety of bird/wildlife with controlled public access. SUDS features will be incorporated into the parkland in the form of a regional wetland area to provide a suitable habitat for wildlife, as well as a pleasant amenity. The habitat protection measures and amenity uses must accord with AA measures outlined in the Natura

Impact Report. This park shall be transferred to Council ownership prior to the occupation of any units in Phase 2.

Section 6 identifies the requirement for primary school, childcare and neighbourhood centre facilities within the Corballis East Lands.

Section 8, Urban Design Framework, sets out specific provisions for the development of the lands. The LAP lands at Corballis have the potential to provide approximately 1,850 units based on a density of 35 units per hectare. Family homes will be the primary housing form, whilst apartments and other multi-occupancy units will be encouraged closest to the Village and at other appropriate locations.

Residential development of a higher density will be provided closest to public transport (bus / rail) and the Village core. A planned extension to the Village is envisaged adjacent to Smyth's Bridge House, to accommodate additional retail, local services and live-work / incubation units.

No buildings shall be built above the 20m contour line and the maximum ridge / roof heights shall be limited to 26m OD, below the ridge height of the existing houses at 'The Strand'. Objective 8.8 requires that a strategic landscape corridor / linear be provided in this area along the boundary with The Strand, in advance of any development.

Detailed Visual Impact Assessments and Landscape Character Analysis will be required as part of any application for development on these lands.

Section 8 notes that the proposed Nature Park provides a buffer zone between the LAP lands and Malahide Estuary. A cattle grazing programme is proposed for this wetland site together with its use as a Nature Park with managed public access.

The railway edge treatment must be carefully considered to allow for any future widening of the rail corridor.

Section 8.3 notes that building heights on these lands will be generally 2-storey with potential for some higher buildings close to the village centre.

Section 9.1 considers the sequencing of development in Donabate. Phase 1 includes lands at / to the south of Smyth's Bridge House for mixed use commercial and residential development (<50 dwelling units). Junction improvements east of

railway bridge shall be completed prior to the occupation of any residential / commercial unit.

Phase 2 includes 300 no. units in Corballis East, where they integrate with the established village and existing community. This phase will be underpinned by the construction and operation of the DDR. Prior to the occupation of any units in Phase 2:

- The road distributor shall be fully operational (Hearse Road – Balcarrick Road).
- Ownership of the Corballis Nature Park shall be transferred to Fingal Co. Co.
- Landscape screening in the form of a Strategic Landscape Mitigation Area shall be in place in the area south of 'The Strand' estate to better integrate the new development lands into the existing ridgeline of the Corballis hillside area.

Phase 3 includes 1,000 units in Corballis East. This final phase will be predicated on the operation of the Donabate Distributor Road infrastructure and the geographical growth of the settlement. It is envisaged that Phase 2 and 3 will run consecutively, with a relatively short timeframe between these phases of construction.

A small neighbourhood centre with a landscaped civic space and provision of a school site (minimum 16 classroom primary school) will be required prior to the commencement of house no. 301 within Corballis East (Phase 3).

5.2. National and Regional Policy

5.2.1. National Planning Framework

Acknowledging demographic trends, the aim is to see a roughly 50:50 distribution of growth between the Eastern and Midland region, and the Southern and Northern and Western regions, with 75% of the growth to be outside of Dublin and its suburbs.

An emphasis on renewing and developing existing settlements will be required, with a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

The strategy for Dublin includes:

- Supporting the future growth and success of Dublin as Ireland's leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city.
- Enabling significant population and jobs growth in the metropolitan area, with better management of the trend towards overspill into surrounding counties.
- Addressing infrastructural bottlenecks, improving citizens' quality of life and increasing housing supply in the right locations.

Objective No.67 requires Metropolitan Area Spatial Plans to be prepared and in the case of Dublin and Cork, to also address the wider city region in tandem with and as part of the relevant Regional Spatial and Economic Strategies.

5.2.2. **Regional Planning Guidelines for the Greater Dublin Area 2010 – 2022**

The future growth of towns in the settlement hierarchy is dependent on the provision of and investment in adequate infrastructure. Growth needs to be in line with the ability of water services to suitably accommodate any expansion; and where significant expansion is planned in association with new public transport, should only take place following clear commitment of delivery of the project(s) within a reasonable timeframe

Located within the Metropolitan area, Donabate is defined as a Moderate Sustainable Growth Town; strong edge of metropolitan area district service centres, high quality linkages and increased densities at nodes on public transport corridors. These towns are sub-county town level, with lesser levels of economic activity than required to service the local population. Commuting to Large Growth towns and the Gateway is significant, with connections by bus to a number of destinations and the City (where available by rail) meeting such needs.

They will continue to have a strong role as commuter locations within the consolidation of the metropolitan area. Growth should be based on and related to the capacity of high-quality public transport connections and the capacity of social

infrastructure. Emphasis should be placed on encouraging good local connections to adjoining suburbs, towns and employment locations through bus corridors and good cycling and walking connections.

Strategic Policies and Recommendations note that Fingal has two key new public transport corridors which provide new opportunities to strengthen the integration between high quality, high capacity public transport and housing growth. Future housing in the Fingal area should strongly focus on supporting these two new corridors with the large majority of new housing occurring within their catchment.

5.3. **Natural Heritage Designations**

The closest sites of conservation interest are

- Malahide Estuary SAC and NHA (00205) and SPA (004025).
- Rogerstown Estuary SAC and NHA (00208) and SPA (004015).

There are several other sites within approx. 15km of the site, identified in Section 9.0 of this report Appropriate Assessment.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

Gareth Lee on behalf of Donabate Portrane Community Council make the following points in the appeal against the decision to grant permission in this case:

Project Splitting

- The application constitutes an exercise in project splitting.
- The infrastructure proposed is not a stand-alone project. The EIAR operational phase should be when housing and other works are complete.
- It was held in the O’Grianna case that such a two-part project should be assessed together.

- In Fitzpatrick v ABP (Apple Athenry), it was noted that “proposed development” is a proposal to carry out one of a series of developments.
- A cumulative assessment of the effects of the proposed development and the future development and other approved development is required.
- The planning authority initially agreed with this position on cumulative assessment, however, this view changed following receipt of further information.
- The Addendum EIAR remains deficient. The application and EIAR understate the environmental effects of the overall development.
- There is no certainty about the nature of future housing development on the lands and therefore no basis on which EIA can be carried out.
- There is no similarity between this application and how outline permission operates.
- The application fails to consider cumulative impacts with PA ref. F17A/0113, to the west of the railway, for which the planning authority failed to require an EIAR.

AA Screening and Natura Impact Assessment

- The Screening Report and NIS are incomplete and do not form the basis for a decision.
- The reports fail to have regard to most up to date EU guidance documents.
- The assessment fails to consider or assess the effects of any other plans or projects in the area, including future residential development, the Donabate Distributor Road or adjoining residential development.
- The key impact identified on birds feeding and roosting on part of the site cannot be mitigated against.
- Three mitigation measures are proposed but these are not described in detail.
- The third measure is compensatory in nature, replacing lands used by birds for feeding and roosting with alternative feeding and roosting areas.
- Compensatory measures cannot be considered in the assessment.
- There will be permanent displacement of birds from lands and the planning authority misunderstand the proposed mitigation measures and their effect.
- The revised NIS submitted as further information did not have regard to third party submissions and no further site visits were undertaken.

- The assessments are deficient, and it is not clear what survey work was undertaken.
- Applicants reports do not identify the presence of Irish hare (Annex V) on the site or other Annex II bird species recorded thereon. No reference is made to the recognised presence of otter in this area.
- The impact of site clearance works on these species is not considered.
- There are incorrect or out of date statements on the status of species in the area, evidence of the deficiencies in the assessment of biodiversity impacts.
- The planning authority failed to undertake Appropriate Assessment and did not address the issues raised in third party submissions.
- The planning authority recognised that the continuous construction programme for the nature park could impact on listed species.
- The assessment fails to remove all reasonable scientific doubt that the development will not impact on the integrity of the SPA.

Compliance with the LAP and Development Plan

- The development contravenes the phasing provisions of the LAP.
- There is a significant shortfall in public open space provision contrary to development plan requirements.
- Given its nature conservation use, the Nature Park cannot be considered as public open space.
- Surface water storage under the Eastern Park is not an acceptable under the development plan.
- Condition no. 8 requires a financial contribution in lieu of any shortfall in open space. This is only appropriate in exceptional circumstances which are not demonstrated here.

Infrastructural Deficits

- There is no capacity on commuter rail services to Donabate and current bus services are limited.
- There is no scope for additional rail capacity for at least three years, while other planned transport infrastructure projects will not be completed in the short-medium term, e.g. Metro North.

- The extension of the DART network will not address capacity issues.
- Significant development along rail corridors is being permitted with no regard to passenger capacity.
- There are electricity network constraints affecting the peninsula, as well as telecoms service constraints.
- The capacity of the Donabate Distributor Road is insufficient to serve development lands.

6.2. Applicant Response

The first party make the following comments on the third-party appeal:

- The development provides infrastructure to support the plan led development of these lands. The rationale for this approach is:
 - To provide for early environmental assessment of the development.
 - To provide certainty around provision of infrastructure.
 - To provide additional time for more design of future housing.
 - To set out an environmental envelope for future applications.
- The Nature Park will be completed and ceded to the planning authority in the first phase of development.
- The Masterplan was developed in consultation with the planning authority.
- The application was accompanied by an EIAR and the appellants therefore incorrectly raise the issue of “project splitting”.
- The proposed works are not dependent on any other development that is not included or assessed in the submitted EIAR.
- The Addendum EIAR provides additional information on cumulative effects and the EIAR is compliant with the requirements of the Directive.
- The O’Grianna judgement is not applicable. UK and EU case law also supports the contention of the first party in this regard.
- The requirement is for the EIAR to consider cumulative environmental effects with other existing or approved developments.

- While future residential development is not existing or approved, the EIAR considered the cumulative impacts of the overall development for residential purposes.
- Fitzpatrick v. ABP (2019) concluded that the project subject to EIA is that for which permission is sought, not the larger masterplan of which it is the first phase.
- Proposed infrastructure has capacity to serve the masterplan lands.
- Other case law (O’Grianna 2 & North Kerry Wind) confirm that future residential development does not have to be included in the planning application for full EIA to be carried out.
- The response identifies previous planning cases where a similar approach to infrastructure provision was proposed.
- Reference to PA ref. F17/0113 in the appeal is irrelevant.
- The NIS assesses the proposed development individually and in combination with other projects and plans including future housing development, all zoned lands and the Donabate Distributor Road.
- The NIS concludes that there will be no adverse effects on the Nature 2000 network arising from implementation of the LAP.
- Two mitigation measures are construction related and a third measure relates to the design and operation of the Nature Park.
- The Nature Park is an objective and mitigation measure of the Donabate LAP and is not provided to address individual impacts of the proposed development.
- Ex-situ lands used by birds will not be lost and this is not a compensatory measure. It is consistent with measures to retain its suitability for wildlife.
- The NIS includes measures for the management and delivery of the park.
- Assessments were prepared in accordance with best practise and the requirements of the Directive. The availability of more up to date guidance does not affect the outcome.
- The appeal misquotes the NIS. Significant effects on Malahide Estuary SPA were not screened out.
- The NIS contained complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt that there will be no adverse effects on the Nature 2000 network.

- Extensive field surveys were carried out over multiple seasons. Surveys since 2017 showed no evidence of wintering birds on the site. The distributor road has changed the character of lands significantly in this regard.
- There are no suitable otter habitats on the lands and no likely impacts thereon.
- No priority habitats will be affected by the proposed development.
- Supplementary site surveys in January and July 2019 did not identify any hares on the appeal site, although the lands are suitable for this species.
- Otter is not a qualifying species for the SAC and is not considered in the NIS.
- The application includes strategic open spaces. Future residential applications will provide public open space in accordance with development plan standards.
- It is unlikely that the development of these lands would give rise to increased public transport demand until at least 2022. There has been a reduction in rail users south of Donabate in 2017 to 2018.
- Irish Rail fleet expansion will not be constrained by delays in electrification of the network. There will be future linkages to metro services in Swords.
- Completion of the Donabate Distributor Road will enhance road capacity.
- The Traffic Impact Assessment considered all zoned lands in the area and concludes that there will be adequate capacity available.
- The development will provide enhanced pedestrian and cycle routes in the area.
- Donabate is within a designated growth area in the Metropolitan area, benefitting from major infrastructural investment.

6.3. Planning Authority Response

In response to the third-party appeal, the planning authority note that the decision to grant permission was based on the deemed valid application in conjunction with the EIAR and NIS. The Board are requested to uphold the decision of the planning authority.

6.4. Observations

The observation received from John Lovatt makes the following points:

- Ecological surveys were flawed. Inadequate site visits were undertaken.
- Surveys identified no features of importance, although there are red and amber bird species present on the site.
- The development will eliminate one pair of Yellowhammer and potentially four pairs of this species with no plans for its protection. There were only 9 pairs on the peninsula in summer 2019.
- There is no consideration of retention of existing habitats critical to its survival which includes a minimum amount of cereal crop in a landscape.
- The current plant and hedgerow profile support the species.
- Population declines can be addressed by increasing weedy stubbles or supplementary feeding.
- The Observer identified other amber listed species who are also subject to habitat loss. These are not referenced in reports on the site.
- While provision is made for foraging by Brent geese for which there are other suitable lands in the wider area, no consideration is given to habitat impacts on other species.
- The proposed grazing area will reduce bird habitat while cattle will give rise to methane emissions contributing to global warming.
- Use of the lands for food production should continue, while contributing to biodiversity through agricultural practises.
- Provision of a dog-run will impact on breeding habitat.
- Barn Owl is a red listed species which has been observed on the site.
- Irish Hare is readily evident on the site but is not noted in survey results. this has already been subject to displacement by construction of the DDR.
- Woodland at the south-eastern corner of the Nature Park is unsuitable and should be omitted.
- This is not a play park and playgrounds should be omitted. A Nature Park cannot be compatible with more than one pathway as it will lead to disturbance.

6.5. **Prescribed Bodies**

The Dept. of Culture Heritage and the Gaeltacht make the following comments on the case:

- The Dept. concurs with the comments of the PA Conservation Officer.
- the proposed road between the protected structure and outbuilding to serve a large housing development would serve the connection between these historic buildings. and negatively impact on their setting.
- An amended design obviating the need for a road and junction at this location would protect the setting of the protected structures.

7.0 **Assessment**

7.1. **Principle of Development**

- 7.1.1. Donabate is identified as a moderate growth town within the metropolitan area. There has been significant infrastructural investment in the Donabate / Portrane area in recent times including Portrane Wastewater Treatment Plant, Donabate Distributor Road and upgrades to the water supply network.
- 7.1.2. The proposed development comprises the provision of roads, services and open spaces to facilitate the future development of these lands for residential and associated community uses. The lands are zoned for residential and amenity uses and the Donabate LAP contains a number of specific objectives in relation to the nature and form of development to be accommodated on the lands. The works proposed in this case are either in accordance with these objectives or else facilitate their achievement in later development applications.

Within the development phasing set out in the LAP, the Corballis East lands are identified as comprising part of each of Phases 1, 2 and 3, where phasing is based on the number of dwelling units provided. Phase 1 includes lands adjacent to Smyth's Bridge House, Phase 2 provides for 300 units to the south of the village and Phase 3 provides for 1,000 units on remaining lands which extend beyond the eastern boundary of the appeal site. Provision of strategic landscape features and community infrastructure are also tied into the phased development of the lands. In terms of infrastructure, the key dependency is on completion of the Donabate Distributor Road. Works on this road are substantially complete and this would not constitute a barrier to development.

7.1.3. The application was accompanied by a non-statutory Masterplan, which identifies indicative layouts for the subsequent residential development of the lands in accordance with the provisions of the LAP. Amendments to the layout of development were undertaken at further information stage, particularly in relation to road layouts and to the primary school site and I note that condition no. 4 of the planning authority decision requires that an updated Masterplan be agreed prior to the commencement of development on the lands.

7.1.4. The application seeks a ten-year planning permission, however, there is a lack of clarity in the application with regard to the phasing of the road network and drainage and water services. Condition no. 2 of the planning authority decision requires that a fully detailed phasing plan be agreed prior to commencement of development.

LAP Phase 1 lands, adjoining and to the south of Smyth's Bridge House, can be accessed independently, however, only limited residential development can be completed independent of the services infrastructure proposed on the remainder of the lands.

Phase 2 lands will require substantial elements of the overall infrastructure to be provided including internal roads and services. Condition no. 2(b) requires that Road BL01 be completed in Phase 2, which provides access to Balcarrick Road.

Conditions do not require provision of Road BL08 as part of Phase 2, which will provide access from the new Distributor Road. I regard this as an important mitigation factor in respect of traffic and transportation, as referenced in section 7.2 of this report below, and should be a condition of commencement of Phase 2. I consider that the revised Masterplan required under condition no. 4 should include details of the phasing of development on the lands, to include provision of all roads and service infrastructure.

7.1.5. The LAP provides for densities of 35 / ha across the zoned residential lands, based primarily on family homes with higher densities closer to public transport and the town centre. The nature of development proposed herein accords with the objectives of the LAP in this regard but does not necessarily constrain the achievement of higher residential densities in subsequent planning applications. Alternative densities of development were considered as Alternatives in the EIAR / Addendum EIAR.

The development is otherwise in accordance with the objectives of the Donabate Local Area Plan and County Development Plan and is regarded acceptable in principle.

7.2. Environmental Impact Assessment

7.2.1. Introduction

Schedule 5 of the Planning and Development Regulations identifies developments for the purposes of Part X. In particular, item 10 (b) (iv) of Part 2 of Schedule 5 refers to Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

The subject application site extends to approx. 42.76 ha and is of a nature and scale that exceeds the statutory threshold for urban development and accordingly, an Environmental Impact Assessment Report is required. The application was lodged after 16th May 2017 and falls to be considered under the 2014 Directive. I have examined the documentation submitted by the applicants to the planning authority, including subsequent further information submissions to the planning authority and the Board. This includes the EIAR and Addendum EIAR prepared by the applicants.

A summary of the results of the submissions made by the planning authority, prescribed bodies, appellants and observers has been set out at Section 6 of this report. The main issues raised specific to EIA relate to the adequacy of the scope of the EIAR and the assessment of impacts of habitat loss on biodiversity, in particular bird species observed on the site. These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on

the environment and complies with article 94 of the Planning and Development Regulations 2000, as amended.

The requirements of Schedule 6 are generally met, however, there is no specific consideration of *the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it*, as required under Article 3(2) of the EIA Directive.

While the EIAR does not explicitly address this issue, regard is had to unplanned events such as overload of sewers. Given the nature and scale of the project, it is not likely to be one which is likely to cause a major accident and the site is not within consultation distance of any Seveso / Major Accident Hazard site. The development is not vulnerable to flood risk or likely to give rise to risks to public health or other significant effects. In that regard, such effects could not be significant.

I am satisfied that further assessment of the expected effects deriving from the vulnerability of the project to risks of major accidents and / or disasters including those which might be caused by climate change would not be required in this instance.

Article 97(1)(b) requires that where an EIAR is required to be submitted to a planning authority or the Board on appeal the applicant for planning permission shall submit 10 copies and one electronic copy of the EIAR. This requirement came into effect on 1st September 2018, while the subject application was lodged with the planning authority on 1st November 2018. It is understood that no electronic copies of the EIAR were lodged with the application, however, an electronic copy was subsequently provided to the Board at appeal stage.

7.2.2. EIAR Adequacy and Project Splitting

A key issue raised in the third-party appeal relates to the adequacy of the EIAR and the assessment of the impacts of future residential development which is to be facilitated by the development described in this application. I note that this question has previously been considered in principle by the Board and by the courts in other planning cases.

The appellants refer to this application as a case of project-splitting. The term project-splitting generally refers to the sub-division of a larger project into smaller, sub-threshold parts in order to avoid the requirement to undertake environmental impact assessment. That is not the case arising in this application, which was subject to the preparation of an EIAR. Future applications for development on these lands will also be subject to screening for EIA and where appropriate, preparation of an EIAR. In this regard, there is no issue of avoidance or project-splitting in this case. The principle question is whether the residential and other components of the Masterplan should be included in the EIAR in order to conduct a complete assessment of potential significant effects.

This application relates to roads, services, open space and other infrastructure works and the application was accompanied by an indicative Masterplan outlining future development on these lands in accordance with the provisions of the Donabate LAP 2016. Such future development would be subject to separate applications for planning permission. While the subject development and future residential development are interlinked, these works do not have dependency on the subsequent residential applications for commencement or completion. The question is whether the Board is obliged as a matter of law to carry out an EIA of the entire masterplan development.

In accordance with the decision of the Supreme Court in the Apple case, Fitzpatrick and Daly v An Bord Pleanála and others, the Board is only obliged to carry out an EIA of the proposed developments for which planning permission is sought. It is additionally obliged, however, to take account as far as practically possible of the environmental effects of potential later phases of development identified in the masterplan.

On this basis, I do not concur with the appellant's arguments with regard to the adequacy of the scope of the EIAR, noting however the requirement to take account of the cumulative effects of later phases of development.

7.2.3. Alternatives

The subject application relates to the provision of roads, infrastructure, services and open space facilitating the future residential and associated development of these lands. The application and indicative Masterplan have regard to the specific provisions of the LAP and County Development Plan for these lands which relate to:

- Land use.
- Residential densities.
- Building height and form.
- Phasing.
- Access and pedestrian & cycle connections.
- Drainage and services.
- Location of school and neighbourhood centre.
- Location of pumping station.
- Form and location of strategic open spaces.

Within the EIAR, the applicants outline a number of alternative layouts and forms of development for these lands as well as the Do-Nothing scenario. At FI stage the planning authority requested that further consideration be given to alternatives and in this regard the addendum EIAR considered two further alternative layouts.

While the alternatives considered are relatively limited in scope, in the context of the specific planning policy objectives for the lands, which were subject to assessment and public consultation, I consider that the alternatives considered are logical and reasonable in scope and that the requirements of the Directive have been adequately addressed.

7.2.4. Assessment of the potential effects of the project

a) Population and human health

Chapter 5 of the EIAR uses the indicative residential capacity of the lands identified in the Masterplan, as well as applications granted permission in the surrounding area, to assess the cumulative impacts arising from future residential development.

Population: Construction employment may give rise to a medium-term increase in population. Indirectly, the cumulative long-term impact will be an increased population. This will assist the town in reaching a critical mass for provision of services and facilities, described as a significant, positive and permanent impact.

Communities and Facilities: Construction activity may result in some disturbance and traffic impacts over the medium-term impact. Road improvements at Main Street / R126 will improve the safety and operation of this road, while works adjoining Smyth's Bridge House will improve the visual amenity and character of the area. Public open spaces and connectivity through the site to other footpaths and cycle routes will have positive impacts for the community in Donabate. Cumulatively, increased population will contribute to clubs and local organisations. The EIAR considers the new school and neighbourhood facilities as a significant positive and impact.

Employment and Economic Activity: Construction employment will have potential economic benefits through increased spending over the medium term. In the longer-term, cumulative development of the lands will facilitate new business and employment opportunities, as a positive impact.

Human Health: The closest residential properties are The Strand, to the north of the appeal site. The EIAR concludes that the application of standard construction mitigation measures and adherence to identified noise and dust emission limits would adequately address potential impacts on human health.

Use of the Donabate Distributor Road to access the site would avoid impacts from construction traffic movements through the town. Modelling of traffic volumes and associated emission levels in the EIAR indicates that air quality will remain within required ranges in the construction and operational phases.

While there may be concurrent construction sites in the area, there is a finding of minimal risk of cumulative noise and vibration impacts resulting in exceedance of relevant thresholds. The supplementary noise assessment identified that subject to identified mitigation measures, relevant acoustic standard can be achieved for future residential development in proximity to the railway.

The availability of public water supplies obviates potential water impacts on human health. Cumulative impacts with regard to risk from surface water or flooding are not anticipated, having regard to the location and nature and design of the proposed development. Potential indirect positive health impacts from increased amenity and recreational facilities could arise.

Risks arising from other unplanned events, such as accidents or spillages, are described as not significant having regard to proposed mitigation measures and planned redundancy in infrastructure.

The EIAR includes a screening exercise for Health Impact Assessment which concluded that the development proposed will not have a likely negative impact on Social and Economic Conditions, Structural Issues, or Individual and Family Issues that Influence Health.

Conclusion and Comment:

The proposed development will facilitate future residential development and an increased population in the town, in line with local and regional planning policy. Significant negative effects on Population and Human Health are not considered to arise. There will be short to medium term impacts during construction activity, however, standard construction mitigation measures will adequately address significant effects. I note that the future school and community facilities will generally serve the Corballis lands rather than the existing local community and that benefits thereto will likely be neutral or minor positive. The proposed Nature Park and linkages from the town centre would provide additional amenities and connectivity to the shoreline for the wider community and would in this regard constitute a positive impact.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of population and human health.

b) Biodiversity

First party documentation refers to site visits undertaken and makes reference to other studies undertaken in this area, including the Natura impact Report prepared in respect of the 2016 Donabate LAP. The site is not within any area that is designated for nature conservation, although the southern boundary is adjacent to the Malahide Estuary SPA and SAC. Site surveys identified no plants listed as rare or of conservation value on the lands and there are no habitats listed for protection on the site. One alien invasive species was recorded in the north-western corner of the lands. A bat survey undertaken did not detect any bat roosts on the site although three species use the area for foraging and/or commuting. Mammals recorded or evidenced on the site include fox, rabbit, Irish Hare and badger, while suitable habitat exists for other species. The EIAR notes that common countryside birds were found to be nesting in areas of scrub and hedgerows and a pair of Yellowhammer was recorded nesting near the railway line which is a bird of 'high conservation concern'. The proposed development involves the removal of approx. 1.5km of 'lower significance' hedgerow and 6,200m² of scrub.

The southern part of the lands adjacent to the estuary was previously identified by Fingal County Council as being of value for wintering wetland birds. This includes the Nature Park which is designated to ensure its continued suitability for these birds. The EIAR reports that no wetland or wintering birds were recorded on the site in March. While there is reference to a site survey undertaken in January 2019, no specific survey results from this visit are provided.

The EIAR identifies potential impacts of the proposed development along with their likelihood and significance. In the do-nothing scenario, there will be no immediate threats to habitats or species of interest, while other developments, such as the Donabate Distributor Road have resulted in some loss of habitat. Predicted impacts are identified as:

- Habitat Loss
- Loss of available land for wintering birds
- Species mortality during site works
- Surface water run-off and pollution of water courses

- Damage to hedgerows which are to be retained
- Spread of alien species (Three cornered Garlic)
- Habitat fragmentation incl. loss of bat and foraging habitat
- Wastewater impacts
- Disturbance to species during operations.
- Creation of Landscaping / Nature Park as a positive measure
- Impacts to protected areas

Mitigation measures in respect of identified significant impacts are identified as follows:

	Significance	Mitigation
Construction:		
Mortality from site clearance works, especially during breeding season.	Significant	Mitigate by prevention - Timing of works and or pre-works inspection
Pollution of watercourses.	Not significant	Best practice - Construction management Plan.
Spread of alien species.	Significant	Mitigate by prevention - Standard clearance methods, herbicide treatment
Possible damage to retained hedgerows.	Significant	Mitigate by prevention - tree protection areas to be established.
Disturbance to birds in Malahide Estuary		Mitigate by prevention – Avoid use of Coast Road for site access; Erection of hoarding as a visual screen along southern site boundary.
Operation;		
Disruption of ecological corridors and loss of habitat, impacting on mammals, Bat species	Significant	Mitigate by Off-set - Retention of hedgerows, managed cutting of meadows to retain seed supply, planting seed rich species in the

and birds, Yellowhammer.		Nature Park to encourage retention of Yellowhammer. Mitigate by enhancement - planting and habitat enhancement, and provision of bat boxes.
Disturbance from human activity	Not significant	Lighting design in the development and Nature Park

The most significant impact identified in the EIAR relates to the red status species, Yellowhammer, due to loss of habitat. There will also be impacts on other countryside bird species frequenting the area. While specific mitigation measures are identified, their likely success is uncertain. Failure of the mitigation planting would give rise to the permanent loss of the bird from the site described in the EIAR as a Moderative Negative impact.

Potential cumulative impacts are regarded as significant for birds, particularly Yellowhammer, even though the number of birds concerned is small. The EIAR recommends annual surveys for the presence of yellowhammer species to determine the success of the identified mitigation measures and allow for adjustments, and if successful for measures to be applied over a wider area to conserve biodiversity.

Lighting is to be installed in compliance with Bat Conservation Ireland guidelines for artificial lighting and motion activated lighting will be provide along paths in the Nature Park.

The EIAR and NIS also identify that potential significant effects on wintering bird species due to disturbance may arise, particularly during the construction phase. Subject to mitigation measures, these impacts are described as not significant adverse in the EIAR.

Comment and Conclusion:

The subject lands have been zoned for development in the 2016 local area plan. Expansion of development in Donabate will result in the replacement of existing agricultural lands with urban development, with associated loss of habitats. The existing lands are not of specific conservation interest in terms of habitats and flora

and there has been historic removal of field boundaries. The primary interests arise from the presence of wintering birds associated with the nearby SPA's and specific native species, in particular Yellowhammer.

It is acknowledged that there are small numbers of Yellowhammer present on the lands, recorded as nesting along the railway boundary. This hedgerow boundary is to be retained. Numbers of this species have declined nationally due to changing agricultural practises and loss of habitats, particularly an overall reduction in the extent of cereal crops. The EIAR proposes specific planting mitigation measures within the Nature Park aimed at retention of Yellowhammer on the site but acknowledges that there is uncertainty with regard to the likely success of same. While the removal of trees and scrub is to take place outside the March-August season, it should be noted that the nesting season for this species can extend later in the year and this exclusion period may need to be extended. Pre-clearance surveys to avoid impacts on resident birds should also be undertaken.

Having regard to the small number of birds recorded on the site, the availability of adjoining agricultural and amenity lands and the proposals for the Nature Park, it is not considered that the impacts identified would be sufficient to warrant a refusal of permission for the development of the lands in line with the provisions of the Local Area Plan.

The impact on wintering bird species is considered in greater detail in the Section 9.0 of this report, Appropriate Assessment. Impacts may arise in terms of disturbance of birds roosting and feeding within the SPA and in terms of disturbance or displacement of birds using the subject lands for roosting or foraging. This particularly relates to the presence of the Brent Goose, a species of special conservation interest for Malahide Estuary SPA and Rogerstown Estuary SPA.

In terms of disturbance of birds within the SPA / estuary area, the use of hoarding and routing of construction traffic is proposed to mitigate potential disturbance impacts during construction. The EIAR and Addendum EIAR do not specifically record the presence or otherwise of any wintering bird species of conservation interest on these ex situ lands. I note that the March site visit would have taken

place at the end of the winter season. The documents do note, however, the observations in the Donabate LAP NIR of the presence of a large flock of Brent Geese on the site in 2014. The frequency, extent and duration of use of the subject lands by wintering birds remains unclear, however.

While the designation and development of the Nature Park has the potential to impact positively on wintering bird species, significant construction works are required to complete the planned park, which will result in possible displacement of such birds using the lands over the proposed 62-week construction schedule. This impact is described in the EIAR as temporary not significant.

This impact is considered in more detail under the Appropriate Assessment heading in Section 9.0 of this report, however, in the absence of data on the pattern of usage of the subject lands by species of conservation interest or not, the significance of this displacement impact cannot be determined. This potential impact was also recognised in the report of the planning authority Biodiversity Officer and the planning officer. It may be possible to condition cessation of construction activities during the important winter months; however, this must be considered in terms of the impact on the overall phasing of development on the lands. I consider that a decision in this regard would most properly be informed by a detailed winter bird survey and assessment of the potential impacts arising from alternative construction schedules.

Appellants refer to deficiencies in ecological surveys undertaken, in particular a failure to adequately reference the presence of Irish hare or other species on the lands. I note that section 6.3.4.2 of the EIAR identifies species observed on the site including Irish Hare, although the first party appeal response indicates that hare was not observed during subsequent surveys in January and July 2019. During my visit to the lands in October 2019 I observed the presence of hare within the area of the Nature Park. The EIAR acknowledges the presence of otter within this wider area, however, it notes that no suitable habitats exist on the subject lands for same. Similarly, the EIAR notes that there are no suitable breeding habitats on the lands for barn owl.

I have considered all of the submissions made in relation to biodiversity and having regard to the above I am not satisfied that potential impacts that are likely to arise particularly in relation to wintering birds would be satisfactorily avoided, managed and mitigated by the measures which form part of the proposed scheme, or the proposed mitigation measures. I refer to the conclusions of section 9.0 Appropriate Assessment, in this regard.

c) Land, soil, water, air and climate

i) Land Soils and Geology

The EIAR identifies that development works will provide 5.7ha of hardstanding with a future expected development hardstanding of approx. 18.6ha. Construction activity will give rise to minimal change in aquifer vulnerability due to the depth of topsoil stripping, although there remains potential for contamination arising from leaks and spillages during construction. Excavated soils will require export off-site and there will be a requirement for the import of suitable clean fill materials, with potential short-term, slight negative impacts. Estimates of the volume of excavated materials take account of future residential development on the lands.

Mitigation at construction stage is based primarily on the preparation and agreement of a Construction Methodology Statement and a Construction Environmental Management Plan. Specific measures for the management of excavated materials and for the movement of materials on and off the site are identified. Monitoring of surface water controls during construction is proposed as part of the construction environmental management plan.

Long-term imperceptible operational impacts are envisaged. There will be a loss of approx. 43ha of agricultural lands however, the EIAR notes that these lands are zoned for development and there is an adequate supply of similar lands in the hinterland. The proposed public amenity spaces are currently private lands, not generally accessible to the public.

Surface water drainage for the proposed development and future residential works in compliance with GDSDS will ensure protection of water quality and attenuation of flows. Cumulative effects on land, soils and geology with adjoining developments are described as insignificant and no significant residual impacts are identified.

Conclusion and Comment:

The most significant long-term impact is the loss of agricultural lands for this area. I note that the lands are zoned for residential and high amenity uses and that the policies of the LAP are in accordance with the wider county and regional planning strategies. In the context of the recognised need for housing provision across the region to meet demand and the availability of agricultural lands in the area, it is not considered that this loss would be unacceptable.

I have considered all of submissions made and having regard to the above, I am satisfied that impacts that are predicted to arise in relation to Land Soils and Geology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Land Soils and Geology.

ii) Air, Dust and Climatic Factors

The EIAR considers construction and operational impacts, including potential impacts arising from future development at the site, particularly relating to traffic-related air emissions. The closest sensitive receptors comprise houses in the Strand, identified as being of High Sensitivity. Current baseline human health sensitivity is described as low.

In the absence of mitigation, construction works will result in a high risk of short-term dust soiling impacts and an. The application of standard construction management measures will address risks of dust spoiling and the overall risk of human health impacts is described as temporary, low.

At operational stage future residential development may give rise to emissions particularly arising from traffic movements. The assessment of impacts is based on predicted traffic generated by the proposed development as well as that arising from surrounding zoned lands and permitted development. Predicted concentrations for identified pollutants are within the relevant limit values and impacts of the future residential development are not significant. Similarly, the increase in CO₂ from traffic movements and the likely magnitude of the changes on climate in the operational stage are not significant. The likely overall changes to Air Quality in the operational stage of a new residential community at the site are identified as not significant.

The application was accompanied by a Flood Risk Assessment, which identifies that most of the site lies within Flood Zone C and is not vulnerable to flooding. A portion of the Nature Park lies within Flood Zone B. Surface water design and management will ensure that the development is not a risk of flooding or give rise to off-site flood impacts.

Conclusion and Comment:

The assessment considers cumulative air quality impacts arising from future residential development on the lands. I note that future residential buildings will be subject to building regulation energy standards and significant impacts on air quality are not considered likely in this regard.

The development is not exceptional in terms of the nature of construction activity or the infrastructure elements proposed, and the application of standard construction mitigation measures will address potential impacts, along with the routing of construction traffic generally along the Donabate Distributor Road.

I have considered all of the submissions made in relation to Air, Dust and Climatic Factors and having regard to the above, I am satisfied that impacts that are predicted to arise would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Air, Dust and Climatic Factors.

iii) **Noise and Vibration:**

The EIAR submitted at application stage assessed noise impacts on the basis of one baseline noise monitoring location, on the western side of the railway line. The dominant noise sources were identified as the railway and birdsong. A more comprehensive baseline noise assessment was submitted at further information stage. The closest residential receptors lie at The Strand estate to the north and east of the proposed development.

At their closest point construction works are proposed within 10/20m of nearest noise sensitive locations. The bulk of construction activity will occur at a remove from sensitive receptors. The EIAR indicates that noise levels during construction will result in minimal risk of exposure causing hearing damage and no long-term operational risk to human health is anticipated. Where construction activity occurs within 25m from adjoining sensitive receptors, there may be some exceedance of identified noise limits, described as a temporary negative impact, requiring mitigation. Vibration emissions are identified as not significant.

Construction mitigation comprises compliance with BS 5228:2009+A1:2014 CoP (*Code of practice for noise and vibration control on construction and open sites. Noise*) and monitoring during construction activities is recommended. Construction traffic will be routed away from sensitive receptors. Residual impacts during construction are described as short-term moderate, while minimal cumulative construction noise impacts are predicted.

Operational impacts include traffic from future residential development. The predicted cumulative change in traffic noise on existing routes is described as not significant, less than 3dB(A) for most of the assessed links. This assessment takes account of other zoned lands and permitted developments in the area. There will be a moderate impact along the route of the new Distributor Road but residual impacts are not significant.

An assessment of the noise impacts of the operation of the adjoining railway on future residential development was undertaken at further information stage. The

assessment found that the building envelope of future dwellings can be specified to achieve appropriate internal noise levels. Proposed mitigation measures comprise upgraded glazing and ventilation systems in future dwellings within 50 metres of the railway line and construction of a 2.4 metre wall at the western boundary of the residential zoned lands.

Comment and Conclusion

Much of the proposed development occurs at a remove from sensitive receptors, the closest residential receptors being houses in The Strand. The existing block boundary walls between properties in The Strand and the appeal site varies in height and condition and as part of initial works on the site, this boundary should be increased to 2m in height.

Overall, proposed development works on the site are not exceptional and should not give rise to particular or excessive noise impacts subject to standard construction management measures. There is potential for construction activity to impact on birds in the adjoining SPA and in this regard, I note proposals for the routing of construction traffic proposed as a Biodiversity mitigation measure.

I have considered all of the submissions made in relation to Noise and Vibration and having regard to the above, I am satisfied that impacts that are predicted to arise would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Noise and Vibration.

V) Water: Hydrology and Hydrogeology

Hydrological features at this site are rated as being of low importance. The appeal site overlies a locally important aquifer, moderately productive only in local zones, of low-moderate vulnerability. The assessment of likely significant impacts had regard to the future development of the site for residential and ancillary uses. In the context

of the area of the underlying aquifer and groundwater body, the overall increase in hardstanding on the lands is described as inconsequential.

Construction activity has the potential to give rise to silt-laden or contaminated run-off from site works, combined with potential increased volumes of run-off. Any discharge of construction water will be subject to license requiring attenuation, treatment and monitoring. Mitigation includes operation of a Construction Environmental Management Plan and standard best practise construction management measures and post-mitigation impacts are described as neutral. Potential impacts arising from the construction phase of future residential development at the subject site, in the absence of mitigation measures, are noted to be similar to those identified for the subject application and similar measures would be applicable to avoid significant residual impacts.

The site is not vulnerable to flooding. Surface water drainage infrastructure is designed in accordance with SUDS principles to accommodate the future development of the lands, catering for a 1:100-year event. Groundwater recharge will be facilitated by design. No significant operational impacts are identified such that residual impacts on the surrounding water environment are described as imperceptible / neutral.

Conclusion and comment

This area is not of particular ground water vulnerability and there are no surface water features of note on the site. The nature of works proposed are not exceptional and standard construction mitigation measures are identified as being sufficient to address potential impacts during construction. The design of the surface water features within the development should otherwise address possible impacts in terms of rate of discharge and water quality. The proposed development is not vulnerable to flooding and will not give rise to increased risk of off-site flooding impacts.

I have considered all of the submissions and having regard to the above, I am satisfied that impacts that are predicted to arise in relation to Hydrology and Hydrogeology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through

suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Hydrology and Hydrogeology.

d) Material assets, cultural heritage and the landscape

i) Material Assets: Water Supply, Drainage and Utilities

The EIAR notes that future residential development will give rise to increased demand for water, sewerage and utility services. An existing 450mm surface water drain from The Strand which runs south through the site will be made largely redundant and incorporated into the proposed drainage network. The existing 450mm outfall to the estuary will be reused as the discharge point for the southern surface water catchment.

The scheme will connect to new watermains being provided as part of the Donabate Distributor Road scheme, and to existing mains on Main Street and Balcarrick Road. The proposed foul drainage network will drain the majority of future development of the lands to Portrane WWTP via a new pumping station. Development in the vicinity of Smyth's Bridge House, Foul Catchment B, will discharge to the existing sewer in Main Street. Portrane wastewater treatment plant has capacity accommodate the planned development of zoned lands in Donabate. Potential for leakage or design loading being exceeded, road infrastructure has been designed to convey flow over ground away from sensitive receptors. There is additional storage in the proposed pumping station.

Construction activities can give rise to silt and contaminant laden waters discharging to drains and watercourses, however implementation of a Construction Environmental Management Plan and standard construction mitigation measures will ensure that significant impacts are not likely. Any discharge to sewers during construction will be subject to the terms of a discharge licence.

The site is small relative to the catchment of the estuary and the proposed development is not vulnerable to flooding. The development, along with future

residential development will significantly increase the hardstanding area. The design of drainage infrastructure in accordance with SUDS and GDSDS design principles will address groundwater recharge and surface water outflow will be restricted to greenfield rates, based on 100-year return period. The development does not give rise to increased risk of off-site flooding.

Future residential development will give rise to demand for water supplies with potential for reduced pressure in public mains. The EIAR notes that in the absence of upgrades to the water supply system, the future development of the lands could impact on existing water supplies.

It is noted that future residential development could impact on continuity of supply of gas and other utility services in this area, with potential for impacts on human health during construction and operational / maintenance phases. These will be addressed through construction methodologies and general risk reduction measures. Existing overhead Electricity cables will be diverted and undergrounded as necessary by ESB.

Conclusion and Comment

There has been significant infrastructural investment in wastewater treatment in this area in the recent past. Portrane Wastewater Treatment Plant has capacity to cater for 65,000 population equivalent (PE) and accommodate planned development in Donabate and is currently operating within relevant licence parameters. As part of the phased expansion of the sewerage network in the area, Ballalease pump station to be constructed on Balcarrick Road at the junction with the Donabate Distributor Road. Condition no. 6 of the planning authority requires that the rising main serving these lands be connected to this pumping station upon its commissioning.

The design of the surface water drainage network in accordance with SUDS and GDSDS design principles, and the provisions of the LAP, is a significant design measure addressing potential impacts from the overall development of the lands.

While the LAP refers to constraints on current water supplies in the town, I note that works commenced in July of this year on the upgrade of the water supply network in Donabate with a stated capacity for 3,000 new housing units, which is due for

completion late this year. Irish Water did not raise any objection to this application and any residual water supply impacts would therefore appear to have been addressed.

I have considered all of the submissions made in relation to Water Supply, Drainage and Utilities and having regard to the above, I am satisfied that impacts that are predicted to arise would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Water Supply, Drainage and Utilities.

ii) Material Assets: Traffic and Transport

The assessment considers the impacts of the proposed infrastructure development and cumulative impacts with the future residential development of these lands as well as permitted developments and available zoned lands in the area.

The Traffic Impact Assessment estimates that construction activity will give rise to up to 12 HGV movements per daylight hour. In addition, construction workers will give rise to traffic movements, however, these will occur generally outside peak hours.

Access to most of the site will be available from the new distributor road providing access to the M1 and avoiding construction traffic movements through the centre of the town. The EIAR indicates that additional employee mitigation measures are possible and construction HGV movements can be strictly scheduled. Adverse, short-term moderate impacts are predicted. Cumulative operational traffic impacts were assessed in a series of traffic models which concluded that:

- Most operational traffic, along with much of the existing traffic flows, will avoid the village through use of the new Distributor Road.
- Connectivity to public transport links will improve the modal split.
- There is sufficient reserve capacity on local links, and similarly on proposed roads, such that there will be no associated congestion or safety impacts.

- One existing junction R126 / Main St. / Turvey Avenue will operate above capacity with / without the proposed development and the development have minimal impact thereon.

The cumulative impact is described as adverse long-term but not significant. Mitigation measures for the construction stage include provision of a construction management plan which will include details of haul routes, timing of activities etc. Mitigation during the operational phase includes inherent design measures comprising pedestrian / cycle connectivity to public transport, to the town centre and to proposed parklands, as well as vehicular access via the Donabate Distributor Road.

Conclusion and Comment:

The development proposes infrastructure to facilitate extensive residential development in accordance with the provisions of the local area plan and country development plan. The lands are served by the Donabate Distributor Road which is currently under construction and which it is understood was subject to LIHAF funding to open up zoned lands. This road will allow traffic to avoid travelling through the town centre, while the development provides for pedestrian and cycle connections to the town and public transport facilities. Significant impacts on the road network are not expected and traffic will be largely directed away from sensitive receptors. Roads and Transportation is subject to further consideration in section 8.0 below.

I have considered all of the submissions made in relation to Traffic and Transport and having regard to the above, I am satisfied that impacts that are predicted to arise would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Material Assets: Traffic and Transport.

iii) Cultural Heritage and Archaeology

The EIAR notes that while there are no RMP sites on the lands, there are three sites in vicinity. Previous studies undertaken for the LAP and the Donabate Distributor Road identified further archaeological sites within this area, while further site walkover and geophysical surveys of the site were also undertaken.

Nine features have been identified within the subject lands. Some have already been excavated under license as part of works for the Distributor Road. Within the northern part of the site a significant earthwork / enclosure has been identified, along with two fulacht fia (excavated). This earthwork site (Corballis 6) is to be preserved within the proposed Central Park area of open space, while three sites remain outside the area of activity or are to be preserved in situ.

The plans indicate a watermain crossing the Central Park open space in close proximity to this earthwork feature. The route of this main should be revised to avoid any impacts on known sites of interest and such works should be subject to archaeological monitoring.

Smyth's Bridge House is noted to be a protected structure along with other structures in its curtilage. No works to the structure or its outbuildings are proposed but creation of the new vehicular entrance and parking provision will require the removal of the existing low roadside boundary wall, which marks the site of a previous building on the site. Site clearance works may identify evidence of other features or buildings of interest on the site.

Identified mitigation measures include:

- Exclusion zone around the earthworks site at Corballis 6 during construction.
- Preservation of Corballis 14 in situ within the Nature Park.
- Topsoil removal in advance of road construction be monitored by an archaeologist
- Undertake a record of townland boundaries which may be subject to removal.
- Undertake a written, photographic and drawn record of existing structures in the curtilage of Smyth's Bridge House and of any finds uncovered during monitoring of works.

The EIAR concludes that these measures will result in an overall neutral impact. Operational and cumulative impacts will have been resolved at construction phase and no residual impacts are anticipated.

Conclusion and Comment

The assessments cover the entire lands within the red line boundary. The lands have been subject to detailed review and analysis and significant impacts are not expected following implementation of identified mitigation measures. In this regard, I note the archaeological comments and recommendations of the Development Applications Unit. Further consideration is given to development in this area of the site in section 8. below.

I have considered all of the submissions made in relation to Cultural Heritage and Archaeology and having regard to the above, I am satisfied that impacts that are predicted to arise in relation to Cultural Heritage and Archaeology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Cultural Heritage and Archaeology.

iv) Landscape and Visual Assessment

The area is identified as being of a Coastal Landscape Character type. Internal hedgerows and boundaries within the site are limited in extent and quality, and tree cover within the site is limited. The EIAR notes that removal of trees and hedgerows to facilitate the development will have moderate negative impacts on the landscape and visual amenities and will give rise to a change in landscape character. Strategic landscaping proposals contained in the application conform with the objectives of the LAP for the area. The cumulative impact with future residential development on these lands would have a moderate negative impact on views and landscape character. The EIAR and Addendum EIAR conclude that with mitigation measures / strategic planting completed in accordance with the provisions of the LAP, including the Nature Park, the longer-term impact will be slight negative. The EIAR describes impacts on eight selected viewpoints as either neutral or slight positive. One view from Corballis Cottage Road north into site is described as moderate positive.

Impacts on Human Health arising from construction activity are described as slight neutral. At operational stage, the EIAR notes there will be positive environmental and recreational activity impacts.

Mitigation measures include:

- Standard construction management measures and adherence to mitigation measures identified in the NIS and Biodiversity chapter of the EIAR.
- Operational mitigation includes a landscape strategy in accordance with the provisions of the LAP for the area, while the Nature Park acts as a screen for development to the north and SUDS features will provide ecological and visual interest.

The EIAR notes that implementation of planning policy for the area and development on these lands will have inevitable landscape and visual impacts. The potential benefits arising are such that the overall impacts will be neutral.

Conclusion and Comment:

The subject lands are zoned as part of Donabate LAP 2016, which contains specific provisions for the landscaping and development of these lands aimed at reducing the visual impact thereof.

Given the topography of the area, the principle views into the site arise from the south. In such views the lands are open and existing trees and hedgerows features are not evident. The Strand residential estate and the new Donabate Distributor Road railway bridge are visible in distant views from Malahide. There will be a change to the character of the lands with their long-term development in accordance with planning policy, however, the completion of the strategic landscaping features and use of topography will significantly mitigate these impacts. I do not consider that the landscape or visual amenity impacts of the development, or future residential development facilitated thereby, would be unacceptable. The opening up of the southern lands to public use and improving linkages between Donabate and the coast / estuary will have a positive impact on population and human health.

I have considered all of the submissions and having regard to the above, I am satisfied that impacts that are predicted to arise in relation to Landscape and Visual impact would be avoided managed and mitigated by the measures which form part

of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of Landscape and Visual impact.

e) The interaction between the above factors.

- Population and Human Health & Water - Hydrology and Hydrogeology:
No significant interactions with human health are expected. No additional risk from flooding is anticipated.
- Population and Human Health & Air Dust and Climate:
Construction activities have the potential to give rise to short-term dust and air quality impacts. Construction traffic and traffic movements from future development of the lands may impact on air quality in the area.
- Population and Human Health & Noise and Vibration
Construction activities may give rise to potentially short-term moderate negative noise impacts on sensitive receptors.
- Population and Human Health & Material Assets: Traffic and Transport
Potential noise and dust impacts arise from construction traffic. Operational traffic impacts on human health are not considered to be significant.
Improvements in pedestrian and cyclist accessibility will result in low potential for increased accidents.
- Population and Human Health & Cultural Heritage & Archaeology
Public interaction with previously inaccessible archaeological features may result in some degradation and slight negative impacts. There will be some positive cultural / educational impacts arising from access to such features.
- Population and Human Health & Landscape & Visual Amenity
Landscaping site works have the potential to give rise to dust and noise impacts on adjoining residents. There is potential for positive impacts at operational phase from access to new amenities and increased accessibility from Donabate to the estuary.
- Biodiversity & Water: Hydrology & Hydrogeology & Materials Assets: Water Supply, Drainage and Utilities.

Construction activity has the potential to give rise to contaminated or silt-laden run-off from the site. Proposed surface water drainage design will address potential negative operational impacts on water quality.

- **Biodiversity & Lands, Soils and Geology**
Site clearance works and loss of agricultural lands will impact on loss of habitats for identified species, including Yellowhammer.
- **Biodiversity & Noise and Vibration:**
There is potential for disturbance of birds in the SPA during construction.
- **Biodiversity & Landscape & Visual Amenity:**
During construction, loss of trees and hedgerows will result in negative impacts on biodiversity including in particular the Yellowhammer. There is potential for disturbance and displacement impacts during construction activity in the Nature Park. At operational stage, the Nature Park and wetland features, securing lands for primarily conservation purposes, comprise potential positive impacts.
- **Land Soils and Geology & Water - Hydrology & Hydrogeology:**
During construction run-off from the site may negatively impact on surface or ground water resources. Longer-term completion of the surface water management systems may comprise a slight positive impact on water quality.
- **Land Soils and Geology & Landscape & Visual Amenity:**
There may be negative visual impacts during the construction phase. There is a short-term risk of soil erosion / loss from the site before establishment of planting and landscaping proposals.
- **Air, Dust and Climatic Factors & Material Assets: Traffic and Transport**
There is potential for dust and air quality impacts from construction traffic and from increased traffic movements from future residential development.
- **Air, Dust and Climatic Factors & Landscape & Visual Amenity:**
The landscaping works have the potential to give rise to dust emissions.
- **Noise and Vibration & Material Assets: Traffic & Transport:**
Construction traffic has the potential to give rise to noise impacts on sensitive receptors. Operational traffic may give rise to noise impacts but these are not regarded as significant.
- **Water: Hydrology and Hydrogeology & Air Dust and Climatic Factors:**

Rainfall and flooding implications of climate change have been considered and incorporated into the design of the development.

- Water: Hydrology and Hydrogeology & Landscape and Visual amenity: During construction and landscaping works, run-off from the site may negatively impact on surface or ground water resources.
- Material Assets: Water Supply Drainage and Utilities & Cultural Heritage and Archaeology

The route of a proposed watermain crosses the Central Park open space proximate to identified archaeological remain with potential impacts thereon.

- Cultural Heritage and Archaeology & Landscape & Visual Amenity & Population and Human Health

There is potential for negative impacts on archaeological features during landscaping works. Public interaction with previously inaccessible archaeological features may result in some degradation and slight negative impacts. Some positive impacts may arise in terms of public education and amenity.

7.2.5. Reasoned Conclusion

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies, appellants, and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

Population and Human Health

- Potential noise and dust impacts: Advance notice to adjoining residents of construction or any major planned disruptions. A construction management plan will be prepared to minimise impacts on adjacent residents, to include management of construction traffic and a Dust Management Plan will be implemented. The mitigation measures identified elsewhere in the EIAR will minimise impacts on adjacent residents.

Biodiversity

Construction Phase

- Mortality to animals during construction: The removal of hedgerows or scrub should not take place during nesting season. Extension of this period may be appropriate in respect of nesting Yellowhammer bird. If unavoidable then vegetation should be subject to pre-works inspection for signs of breeding birds in accordance with the requirements of the Wildlife Act.
- Protection of hedgerows during construction: Adherence to published guidance.
- Spread of Three-cornered Garlic: Herbicide treatment by qualified person.
- Disturbance to birds in Malahide Estuary: The site is to be accessed via the distributor road only. The Coast Road will not be used for site access. Sturdy 2m high hoarding is to be erected along the southern site perimeter for the duration of works.
- Disturbance to species of conservation interest: The EIAR does not address potential impacts on ex-situ feeding or roosting birds of special conservation interest of the SPA.
- Pollution to water courses: Best site management practices which will be identified in a Construction Management Plan.

Operational Phase

- Disturbance to species from human activity: Lighting on the site to conform to Bat Conservation Ireland's guidance for minimising impacts to bats from artificial lighting (BCI, 2010). Lighting design for the proposed Nature Park to incorporate motion activated lighting.
- Yellowhammer: The retention and management of hedgerows as nesting habitat for these birds. The landscaping plan for the Nature Park incorporates seed-rich meadows. Planted meadow areas should to be managed annually by cutting once, late in the year, after the seed heads have dropped.
- Bats: Provision of new or enhanced foraging habitats and bat boxes.
- Disturbance and loss of Habitats: Provision and management of the Nature Park to act as a buffer between development and adjoining sensitive habitats. The Park will secure the lands for primarily conservation purposes.

Land, Soil and Geology

- **Construction Phase:** A Construction Environmental Management Plan (CEMP) will be agreed with the planning authority.
- **Control of Soil Excavation and Export of Material from Site:** Proper control, classification and management of excavated materials, including removal and management as waste. Soil is to be removed as it is excavated. Implementation of dust suppression measures
- **Surface Water Drainage:** Design of the surface water drainage system will address potential water quality issues and provide sufficient attenuation of flows from the site.

Water: Hydrogeology and Hydrology

- **Risk of Contamination:** A Construction Environmental Management Plan (CEMP) will be agreed with the planning authority to address all potential polluting activities.
- **Surface Water Run-off:** During construction identified surface water management measures will address potential water quality impacts, including concrete mixing to be carried out on impervious surfaces. Run-off containing silt will be treated on site via temporary settlement tanks or equivalent. Any discharge of construction water to sewers will be subject to licence. The surface water drainage system is designed to accommodate a 100-year storm event in accordance with best practise. Any stream crossings to accord with best practise.
- **Soil Removal and compaction:** Proper management of waste materials including contaminated materials. Measures to ensure that all imported materials comprise clean fill.

Air, Dust & Climatic Factors

- **Dust impact during Construction:** Applications of standard construction management measures and the preparation of a Dust Management Plan.
- **Climate Change:** Design measures, in particular drainage measures accommodate potential climatic impacts including flood impacts.

Noise and Vibration

- **Construction Nuisance:** Application of best practice control measures found within BS 5228:2009+A1:2014 'Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2'. Other standard management measures are identified.

Material Assets: Traffic and Transport

- **Construction Traffic:** A Construction Environmental Management Plan (CEMP) will be agreed with the planning authority to include details of the routing and management construction traffic. Use of the Donabate Distributor Road for site access is a key mitigation measure for potential construction impacts.

Material Assets: Water Supply, Drainage and Utilities

- **Surface Water:** During construction identified surface water management measures will address potential water quality impacts, including concrete mixing to be carried out on impervious surfaces. Overall management of surface water run-off in accordance with SUDS and GDSDES design principles.
- **Potential Leakage:** All water and drainage networks to be adequately tests prior to commissioning.
- **Utility disruption:** Relevant utility providers will undertake connection works to minimise disruption to existing services

Cultural Heritage & Archaeology

- **Potential for disturbance of both identified and unidentified archaeological features:**
 - Exclusion zone around earthworks site at Corballis 6 during construction and its incorporation into public open space.
 - Preserve sites in situ.
 - Archaeological monitoring of topsoil removal in advance of works
 - Creation of a record of townland boundaries.
 - Creation of a record of existing structures at Smyth's Bridge House and of any finds uncovered during works.

- Re-routing of watermains through the Central Park area to avoid archaeological features may be required.

Landscape and Visual Assessment

- Impacts on adjacent residents: The EIAR proposes operating a well-managed, organised and planned construction site, with adequate control of construction traffic and working activity. Other relevant mitigation measures are identified under the headings of Air and Noise.
- Lighting: Construction lighting design to avoid light spill into the surrounding residential areas and into the wetland habitats of the estuary.
- Protection of Wildlife Habitats: Adherence to measures outlined in the Natura Impact Report in the Donabate LAP and Bio-Diversity mitigation measures
- Landscape and Visual Impact: Implement the landscaping strategy.

Conclusion

The potential impacts of the development on the conservation objectives of the adjoining European site have not been adequately described and assessed, in particular the impacts on ex-situ feeding of birds of special conservation interest for Malahide SPA during construction. I refer to the conclusions of section 9.0 Appropriate Assessment in this regard and consider that the Board would require further information in order to consider a grant of permission in this case.

I consider that other likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed. Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully and clearly mitigate the impact of habitat loss on the Yellowhammer, it is considered that these other environmental effects would not justify a refusal of planning permission having regard to the nature and overall benefits of the proposed development.

8.0 Assessment of Other Issues

8.1. Roads and Transportation

- 8.1.1. Donabate is a commuter town within the metropolitan area and notwithstanding its location on the northern rail corridor, commuting by private car remains a significant transport mode. Such journeys are generally in the direction of Swords and the M1. The most significant infrastructural element in the road network is the Donabate Distributor Road (DDR) whose construction is substantially complete. This road will provide a by-pass of the town centre for traffic from the south and east, improving the town centre environment, and addressing constraints in the vicinity of the railway station / Smyth's Bridge House.
- 8.1.2. The layout of the internal roads, and as elaborated upon in the submitted Masterplan, is based on the principles set out in DMURS. Amendments at further information stage provided for increased cycle and pedestrian provision and connectivity through the site. I note that the north-south dedicated cycle route through the site crosses a number of internal roads / access points on its western side. These internal roads are given priority over this route which must stop or yield at each junction. The layout of development should be amended to locate the internal road stop line inside the cycle route so that vehicles must give way to cycle traffic travelling along this route. This revision should follow the guidance contained in the National Cycle Manual.
- 8.1.3. The relationship of this cycle route with the entrance from the Donabate Distributor Road is not clear. This entrance is to be provided as part of the Donabate Distributor Road works and the final design details are not clear. Details should be agreed with the PA prior to the commencement of works and again, the design principles contained in the National Cycle Manual should be applied in this regard.
- 8.1.4. The development includes provision of a new footpath on the southern side of Balcarrick Road to the west of the site entrance, however, this new footpath does not connect into the existing footpath network in the area. While there is a footpath on the opposite side of this road, there is a gap of approx. 160m between the new footpath and the existing footpath at the entrance to The Strand. This gap should be addressed as part of any decision to grant permission on the site.

8.1.5. The proposed development provides pedestrian and cycle linkages from these zoned lands to the train station and town centre through lands adjoining Smyth's Bridge House. Donabate is currently served by suburban rail services on the northern line, while bus services serving Donabate are currently relatively limited. Donabate is identified as a metropolitan growth town and the Transport Strategy for the Greater Dublin Area, 2016-2035 emphasises rail as the basis for public transport to serve growth in this area.

8.1.6. The transport strategy contains objectives for heavy rail infrastructure including completion of the City Centre Re-signalling programme (on-going) and implementation of the DART Expansion Programme, which will provide DART services across the network as far north as Drogheda. The DART project aims to deliver a substantial increase in peak-hour capacity on all lines. It is understood that the project is at preliminary design stage and completion is not expected until 2027. In this regard, however, it is noted that procurement of new rolling stock for Irish Rail is currently underway which includes hybrid stock in order that delays in the electrification of the line will not impact on improvements in services along this route. In terms of Light Rail Infrastructure, the regional strategy includes the Metro North - light rail link from the city centre to Swords. This planned high frequency, high capacity service is to terminate at Estuary Park-and-Ride at Lissenhall, on the northern side of Swords, approx. 5km from Donabate.

Both of these projects are strategic investment priorities of the National Development Plan 2018-2027. It is clear therefore that there are significant levels of public transport investment planned for this area, based primarily around rail services. The timelines for completion of these projects remains unclear, however. The subject application seeks a 10-year permission for infrastructure works to facilitate further applications for future residential development. It is anticipated that within this 10-year period substantial progress on these transportation projects will have been achieved, however it is considered reasonable that the availability of transport services would be considered in the assessment of future residential applications on these lands in line with the provisions of the Regional Planning Strategy.

8.2. Lands at Smyth's Bridge House

- 8.2.1. The subject lands are provided with a connection to the town centre through lands adjoining Smyth's Bridge House, which are zoned for town centre uses. The pub and associated buildings are identified as protected structures in the LAP and County Development Plan. An extract from the NIAH is appended herewith, which describe the pub as a building of regional architectural importance. There are a number of stone buildings within the curtilage, with structures fronting directly onto the R126 / Main Street. The area to the east and rear of the site is unsurfaced and currently used for informal car parking, and the site is generally of low visual amenity. The lands rise approx. 6m between the public road and the southern boundary of the pub site / Phase 1 lands. This is an important site within the town centre and was identified as a Key Site in the Donabate Urban Centre Strategy 2010. To the east the lands are bounded by the rear of houses in The Strand and a vacant site adjacent to Station Court.

The layout of development in this area was subject to review at further information stage and some improvements to the layout were provided. It is understood that the layout is influenced by a private agreement to provide 46 no. parking spaces for the adjoining public house. This is in excess of the current level of parking which could be accommodated on the site. In my visit during the morning time, I observed approximately 20 no. cars parked on the site. It is unclear whether such parking was commuter parking associated with the adjacent railway station.

The provision of an access through this site has been identified in planning policy documents for some time, including the 2010 Urban Centre Strategy. Following concerns expressed with regard to the original design for this area, revised layouts were submitted at further information stage. I note the report of the Planning Authority Conservation Officer with regard to these revised proposals and would generally concur therewith. Landscaping and completion of the civic space in accordance with the details submitted are critical to the success of the design. I note the submission of the Dept. of Culture Heritage and the Gaeltacht, however, having regard to the planning policy objectives for the site and the report of the Conservation Officer, I do not consider that the development would have an unacceptable impact on the setting or relationship of buildings on the site. There

would be an overall improvement in the visual amenities of the area and the development also has the potential to open up the adjoining vacant site to the east.

The full extent of development to be provided as part of the application is unclear as proposed works are identified as indicative on the revised plans submitted at further information stage. I note that all identified works occur within the red line boundary of the site and condition 2(a) of the planning authority decision requires that roads, parking, landscaping and public spaces be provided in accordance with the details submitted at further information stage. I consider this to be a reasonable and appropriate condition.

I note and generally concur with the submission of the NTA regarding the level of vehicular access proposed through this site, which access is to serve approx. 50 no. dwelling units. This entrance is located adjacent to the railway overbridge and at a potentially busy pedestrian and cycle crossing point. Notwithstanding the Stage 1 Road Safety Audit undertaken, I consider that turning movements into the site at this location should be reduced in order to reduce potential conflicts at this junction and enhance the internal route for pedestrians and cyclists. Reducing its function as an access would also minimise impacts on the setting of the protected structures and enhance the attractiveness of the proposed public / civic space. This could be achieved by restricting vehicular access at this point to Phase 1 development and ensuring that vehicular access to the phase 2 lands is provided through the southern part of the site.

8.3. Adequacy of Residential Open Space

The proposed development provides a number of elements of strategic open space to serve future residential development on the lands, namely.

- Linear Park – 1.4437ha
- Central Park – 0.6788ha
- Eastern Park – 0.3856
- Nature Park – 13.55ha

The Linear Park and the Nature Park are identified as strategic landscaping measures in the LAP. The county development plan sets standards for the level of residential open space provision, requiring a minimum of 10% of site area as Class 2 open space or 2.5 hectares per 1000 population. Excluding the Nature Park, the proposed development provides approx. 2.5ha of public open space, which is less than 10% of the residential land zoning. There is no residential component to the subject application and the population requirement cannot therefore be determined at this time. Subsequent applications for residential development will be required to provide additional open space and demonstrate compliance with development plan standards.

I note the proposal for provision of surface water storage underneath the Eastern Park. Such an approach is provided for in SUDS design principles and I do not consider this proposal to be unacceptable.

Provision of the Nature Park is a specific objective of the LAP and it is a condition of the planning authority decision that the lands be transferred to the planning authority prior to occupation of phase 2 housing. Having regard to correspondence on the file in this regard, I consider that prior to commencement of development on the lands an agreement to complete the transfer the lands to the County Council should be entered. The formal transfer can then be tied into the phased development of the lands.

I note an inconsistency in the submitted drawings in relation to ground levels adjoining Road BL65 and the Eastern Open Space. Cross-section 3-3 on drawing 0166 "Typical Cross Sections Sheet 1 of 3" does not reflect Section D-D through eastern open space as shown on drawing 1402-302-6 "Proposed Eastern and Central Parks". The cross section drawing suggests that there is a significant level of cut required at this location.

9.0 Appropriate Assessment

- 9.1. The subject planning application was accompanied by an AA Screening Report and Natura Impact Statement. The planning authority reviewed the submissions and requested further information in relation to the development to include revisions to

the submitted Appropriate Assessment. I note also that Appropriate Assessment was also undertaken by Fingal County Council in respect of the Donabate LAP 2016 and regard is had to the Natura Impact Report prepared in respect thereof.

The development is not directly connected with or necessary to the management of any European Site.

9.2. European sites in the wider area

The appeal site is not located within any Natura site. Natura 2000 sites within a 15km radius of the site include:

- Malahide Estuary SAC (000205) & SPA (004025);
- Rogerstown Estuary SAC (000208) & SPA (004015);
- Rockabill to Dalkey Islands SAC (003000);

- Rockabill SPA (004014);
- Skerries Island SPA (004122);
- Howth Head SAC (000202) & Howth Head Coast SPA (004113);
- Lambay Island SAC (000204) & SPA (004069);
- Baldoyle Bay SAC (000199) & SPA (004016);
- Ireland's Eye SAC (002193) & SPA (004117);
- North Dublin Bay SAC (000206);
- North Bull Island SPA (04006);
- South Dublin Bay and River Tolka Estuary SPA (04024).

The closest sites to the appeal lands are Malahide Estuary SAC and SPA approx. 10m south of the site, and Rogerstown Estuary SAC and SPA located approx. 1.6km to the north.

Sites considered in the application Screening Report are as follows:

- Malahide Estuary SAC and NHA (00205) and SPA (004025).
- Rogerstown Estuary SAC and NHA (00208) and SPA (004015)
- Rockabill to Dalkey Island SAC (0300)

With regard to the other sites identified above, I am satisfied having regard to the nature and scale of the proposed development, its location on serviced lands adjacent to Donabate, its separation from these sites and the absence of direct source – pathway – receptor linkages, that 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 thereon. The scope of the applicants Screening Report is therefore considered to be reasonable.

9.3. Conservation Objectives of identified European sites

Qualifying interests for Malahide Estuary SAC

- Mudflats and sandflats not covered by seawater at low tide [1140]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]
- Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Special conservation interests for Malahide Estuary SPA:

- Great Crested Grebe (*Podiceps cristatus*) [A005]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Pintail (*Anas acuta*) [A054]
- Goldeneye (*Bucephala clangula*) [A067]
- Red-breasted Merganser (*Mergus serrator*) [A069]
- Oystercatcher (*Haematopus ostralegus*) [A130]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Knot (*Calidris canutus*) [A143]
- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]

- Redshank (*Tringa totanus*) [A162]
- Wetland and Waterbirds [A999]

The NIS indicates that the conservation status of the following bird species in Malahide Estuary SPA are of particular concern:

- Highly Unfavourable Status: Golden Plover, Dunlin:
- Intermediate Unfavourable Status: Grey Plover, Black-tailed Godwit
- Unfavourable Status: Goldeneye, Knot:

Qualifying interests for Rogerstown Estuary SAC:

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- *Salicornia* and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]
- Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Special conservation interests for Rogerstown Estuary SPA:

- Greylag Goose (*Anser anser*) [A043]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Shoveler (*Anas clypeata*) [A056]
- Oystercatcher (*Haematopus ostralegus*) [A130]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Knot (*Calidris canutus*) [A143]
- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Redshank (*Tringa totanus*) [A162]

- Wetland and Waterbirds [A999]

Three species in this SPA are identified as being at unfavourable status,

- Greylag goose
- Grey Plover
- Knot.

Qualifying interests for Rockabill to Dalkey Island SAC

- Reefs
- Harbour Porpoise

The Screening Report notes that the Specific Conservation Objectives for the SAC's relate to habitat area, community extent, community structure and distribution.

There are no objectives relating to water quality. For the SPA's, the conservation objectives for each species relate to the maintenance of stable or increasing population trends and maintenance of current distribution in time and space.

9.4. **Factors likely to give rise to potential impacts**

The lands are currently in agricultural use and are traversed by the route of the Donabate Distributor Road, currently under construction. The proposed development and future residential development will result in loss, or change in the character, of habitats on the subject lands. Part of these lands was previously identified as a roosting / foraging site for wintering birds associated with adjoining SPA's. There is also potential for disturbance of birds on lands roosting or feeding within the Malahide SAC / SPA during construction and operational phases.

The southern part of the lands is designated for use as an Ecological Buffer / Nature Park in the County Development Plan and the Donabate Local Area Plan, to act as a buffer zone between urban development and the estuary. The application notes that the Nature Park will provide a suitable habitat for identified bird species. Open, grazed areas and wetlands within the park are to be protected from disturbance during winter months.

Disturbance is recorded as a potential significant impact. Construction activity will take place within an area likely to give rise to disturbance to a number of bird species within the Malahide SPA. Water quality is not identified as a significant threat to water birds although impacts can arise from algae growth.

Having regard to separation and the lack of direct connection between the appeal lands and Rogerstown Estuary SAC and SPA, impacts in terms of disturbance or water quality impacts thereon are not considered likely.

9.5. In-combination factors

There is potential for impacts on water quality due to increased urban development in the Donabate area and associated WWTP loading, increased surface water run-off and possible contamination of water bodies. Portrane WWTP discharges under license to the Irish Sea and is therefore connected to Rockabill to Dalkey Island SAC. There is no direct pathway to the estuary Natura sites. The treatment plant has adequate capacity to accommodate future residential development on these lands and is operating within licence parameters. The River Basin Management plans identify objectives to achieve good water status under the by 2021.

The Screening Report notes that approval of the Donabate Distributor Road was subject to appropriate assessment and found not to give rise to significant effects on the Natura network.

It is noted that existing rail services run through the Natura Site and along the boundary of the appeal site. Extension of the DART line to North County Dublin and erection of associated overhead lines would pose a potential risk to birds and this project would be subject to separate assessment.

The County Development Plan and LAP identify objectives to develop walking and cycling routes around the estuaries / coast. These objectives were assessed as part of Donabate LAP Natura Impact Report and not considered to give rise to adverse negative impacts, while noting that these projects themselves would be subject to screening for Appropriate Assessment.

9.6. Significant effects on the European site(s)

The Screening Report concludes that there will be no loss of habitats for which SAC's are designated and no indirect disturbance of habitats. Construction activity has the potential to give rise to sediment run-off to Malahide estuary, however the estuary is not sensitive to sediment impacts and the levels of run-off from the project are unlikely to have any adverse effect on the conservation objectives of the European Site.

Surface water from the development site will generally drain to Malahide Estuary. Surface water management measures in accordance with SUDS and GSDSDS design principles are proposed as an inherent part of the development, which ensure that negative operational impacts on water quality or quantity are not likely to arise. Wastewater from future residential development on the lands will discharge to Portrane WWTP which is operating within capacity and relevant emission limits. Significant negative impacts on the conservation objectives of the SAC / SPA's in this regard are not considered likely.

Given separation from Rogerstown Estuary SPA, the Screening report concludes that disturbance to birds in this area will not arise. The Report notes that disturbance to birds within Malahide estuary SPA cannot be ruled out due to

- Construction phase activity resulting in disturbance of birds within the SPA;
- Loss of feeding and roosting areas and displacement of birds on ex-situ lands during construction.

The Report concludes that this impact is not likely to result in a significant impact on the SPA having regard to the fact that these lands are not identified by NPWS as being of significance, to the temporary nature of the project and the limited area of lands used by the birds.

Long term loss of arable lands used by wintering birds could affect the numbers of birds using the area.

At operational stage, there is potential for indirect disturbance impacts on the SPA's and SAC's through amenity pressure arising from increased population in the area. The report notes that new walking and cycle routes are included as objectives of the LAP as mitigation measures to relieve visitor pressure on sensitive sites and concludes that significant amenity impacts in this regard are not expected to occur.

9.7. **Screening Conclusions:**

The Screening Report concludes that in the light of the conservation objectives the likelihood of significant effects can be ruled out and no significant effects are likely along or in combination with other plans or projects, in respect of;

- Rockabill to Dalkey Island SAC,
- Rogerstown Estuary SAC and SPA and
- Malahide Estuary SAC

Significant effects are not be ruled out in respect of Malahide Estuary SPA.

9.8. **Stage 2**

Significant Effects

Potential significant effects on Malahide Estuary SPA, arise from

1. Temporary displacement of birds from significant areas of the SPA through construction disturbance
2. Permanent displacement of birds from areas outside the SPA but which are nevertheless regularly used by species for which the SPA has been designated.

Proposed mitigation measures

The NIS proposes the following mitigation measures to address the above impacts:

Impact 1: Temporary displacement of birds from significant areas of the SPA through construction disturbance.

Mitigation: Construction traffic should not use the coast road / Corballis Cottage Road for site access. Access should be from the New Road entrance, far to the north of the SPA.

Sturdy hoarding (2m) to be erected along the southern site boundary for the duration of construction works, to act as a visual screen between the works area and important inter-tidal habitats.

Impact 2: Permanent displacement of birds from areas outside the SPA but which are nevertheless regularly used by species for which the SPA has been designated.

Mitigation: Mitigation proposed as part of the LAP process involves designation of the Nature Park to act as a buffer zone, which would be attractive to wetland and wintering birds. Management of the park will include the fencing-off of areas in winter months and an area of grazing will be suitable for inter-grazing geese. Screen planting along the southern boundary will screen human activity from birds in the inter-tidal area. The subject application provides detail around the provision of this park.

The submitted NIS consequently concludes that with full implementation of these mitigation measures, no significant effects on the integrity of any Natura site will occur.

With regard to mitigation of Impact no. 2, I note that this is a long-term mitigation measure. The potential displacement of wintering birds due to loss of roosting / feeding site for the duration of the Nature Park construction period is not identified as a potential significant effect, on the basis of:

- the temporary nature of the project, (although it is identified as lasting potentially a number of years)
- the lands not being identified as significant by NPWS, and
- that only a small portion of the lands used by the birds will be affected

9.9. **Comment and Conclusions:**

With regard to the Natura Park, I make the following comments:

- Lands outside the core Natura site can be of importance for listed species, as recognised in the Malahide Estuary Special Protection Area Conservation Objectives Supporting Document (NPWS 2013). Human disturbance can have significant adverse effects on foraging or roosting birds within or on lands adjoining the SPA.

- Surveys undertaken in previous years identified the use of the subject lands by species of interest, including Light-bellied Brent Geese. The LAP Natura Impact Report recorded that up to 500 Light-bellied Brent Geese as well as winter flocks of Curlew were observed in this area as recently as 2013 / 2014. While these birds may be associated with Malahide Estuary SPA, they may also utilise Rogerstown SPA and therefore exclusion of that site from the Stage 2 Assessment may not be appropriate.
- There is limited data provided in the application on the extent and nature of such use by wintering birds. The Screening report refers to correspondence received from the Dept. of Arts, Heritage and the Gaeltacht (Development Applications Unit), which advised that if other sources of bird usage data were not available, including IWeBS, then wintering survey work would be required. While site visits are referenced in application documentation and the NIS, it is not clear that adequate winter bird count surveys were undertaken on the subject lands. The first party appeal response refers to extensive surveys conducted since 2017, however, these surveys are not documented adequately in submissions.
- Completion of the park should have longer-term positive effects for the objectives of the adjoining SPA, as recognised in the LAP, however, construction involved in the development of the Park could give rise to disturbance and displacement of such wintering birds.
- The details submitted at further information stage indicate that the Nature Park will be delivered concurrent with the main development on the residential lands. A construction schedule in respect of the Nature Park was provided which extends over 62 weeks, with no break, in order to expedite delivery of the park.
- No mitigation for this potential construction displacement impact has been proposed as the Screening Report concludes that effect is Not Significant. There is little data to support this conclusion, however, and I consider that data on the extent, frequency and duration of such use would be required to reach a conclusion on this impact. Depending on the time of year that works commence, a 62-week construction schedule will result in disruption over either one or two winter seasons. I note that this potential impact was identified in the report of the

Planning Authority Conservation Officer and that of the Planning Officer on the case.

- The Donabate LAP 2016 Natura Impact Report states that in respect of the Nature Park, habitat protection measures are to be agreed, to ensure that feeding and roosting habitats are protected and disturbance to migratory birdlife for the duration of the construction phase is mitigated to the greatest possible extent. It is not clear that options for the phasing of development works to reduce or obviate impacts on wintering birds during construction were considered.
- Appellants argue that the Nature Park is a compensatory measure rather than a mitigation measure. I note that the purpose of this park is to reserve and retain lands used by wintering birds and does not comprise the replacement of lands lost to roosting / foraging birds elsewhere. The role of this park was identified in the Natura Impact Report prepared in respect of Donabate LAP.
- In considering this matter, I have had regard to the information and submissions available on the file and to the provisions of the Donabate LAP and associated Natura Impact Report. I have also had regard to the decision of the Board under ABP-302225-18, (Lands east of St. Paul's College, Sybil Hill Road, Raheny, Dublin 5) which referenced use of the application lands for feeding by species of conservation interest, in particular Light-bellied Brent Geese, and the impacts thereon by reason of displacement.

While the impact arising in this case relates to temporary construction impacts, given that the duration of such impact, the numbers of wintering birds frequenting the lands and the extent of lands used have not been established satisfactorily, I do not consider that the potential for adverse impacts on the integrity of the Natura site can be ruled out.

- The Donabate LAP 2016 Natura Impact Report also noted that public lighting close to sensitive Natura sites will be subject to Appropriate Assessment and assessment of bird and bat movements within the plan lands and the wider area during dark hours. The EIAR refers to the provision of motion activated, public lighting with minimum impact on the coastal environment, however, there is no assessment in the NIS of such proposals or details of how these may operate.

Such assessment would also conform with the requirement of Objective 8.1 of the local area plan.

Note: References cited in the Natura Impact Statement are not all relevant to this site and there is no reference relevant to the adjoining estuarine Natura Sites. Many unrelated species and sites are cited.

9.10. **Potential effects taking account of mitigation**

Mitigation comprising the routing of construction traffic and erection of hoarding along the southern site boundary should avoid disturbance impacts of birds within the SPA during construction. Construction displacement from within the development lands over one or two winter seasons may still arise and this impact has not been examined adequately in order to satisfactorily determine its significance. Such displacement impacts may species of special conservation interest for Malahide Estuary SPA and Rogerstown Estuary SPA.

During the operational phase, delivery of the Nature Park will address potential disturbance of wintering birds close to residential development. The LAP and County Development Plan also propose the development of pedestrian and cycle routes along the estuary and coastline. These objectives were considered in the LAP Natura Impact Report and adverse impacts on the European site were not considered to arise subject to project level screening for appropriate assessment.

9.11. **Conclusion and Recommendation:**

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site(s) Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (Site Code 004015),, in view of the site's Conservation Objectives.

In particular, it is considered that detailed information on the use of the subject lands by species of special conservation interest for Malahide Estuary SPA and

Rogerstown Estuary SPA, is required in order to enable a full assessment of the risk of significant adverse effects. This matter might be addressed by way of a request for further information however, in its absence I consider that the Board is precluded from granting permission.

10.0 Recommendation

10.1. That permission be refused for the reasons and considerations set out below.

11.0 Reasons and Considerations

Having regard to

- a) Previous recorded observations of significant numbers of wintering birds utilising the subject lands as an ex-situ feeding site, including species which are qualifying interests for the Malahide Estuary SPA (Site Code: 004025) and Rogerstown Estuary SPA (Site Code 004015), in particular the Light-Bellied Brent Geese.
- b) the lack of adequate up to date, quantitative and qualitative analysis with regard to the frequency, duration and extent of such use of the lands, and
- c) the extended duration of construction activity involved in the provision of the Nature Park;

The Board cannot determine the significance of the potential disturbance and displacement impacts of construction activity within the proposed Nature Park on such species with sufficient certainty and accordingly, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites in view of the sites' conservation objectives.

Conor McGrath
Senior Planning Inspector