



An
Bord
Pleanála

Inspector's Report

ABP-306533-20

Development	6 no. two storey, 5 bedroom dwellings with detached single storey garages.
Location	Williamstown Stud , Clonee, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA190406
Applicant(s)	Gregory Rice & Peter & Shelia Rice
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Gregory Rice & Peter & Shelia Rice
Observer(s)	None
Date of Site Inspection	7 th of May 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The application site is located c.1.5kms to the south of the village of Clonee and comprises an existing relatively recent residential development constructed on lands within the former Williamstown Stud. The subject site is within Holsteiner Park residential development. The site is currently greenfield and there is a timber fence along the boundary with the existing estate. The site is relatively flat and is to be taken from the larger field area and there are trees and hedgerows between the field boundaries of the site and along the proximate eastern site boundary.
- 1.2. The area generally appears rural rather than suburban and the adjoining residential development provides for larger executive type detached houses in cul-de-sac format. These comprise of large two storey dwellings, many with attic space converted into habitable accommodation. The site has existing controlled gated access off the R149, a road that connects Clonee and Lucan. There are no footpaths or pedestrian/cycling links in the area proximate to the site or connecting to the village of Clonee. The rural road network is generally narrow and busy and the site is close to the County Meath/Fingal boundaries. It is also close to but not connected to the built-up areas of Clonee/Ongar.

2.0 Proposed Development

- 2.1. This proposal is for the construction of 6no. two storey detached, 5 bedroom dwellings with detached single storey garages.

3.0 Planning Authority Decision

3.1. Decision

On the 7th of January 2020, Meath County Council refused permission for the proposed development for the following reason:

The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provisions of footpaths, cycle paths, pedestrian crossings and public lighting.

The proposed development would be without safe and convenient pedestrian

and cycle access to community and social facilities in the nearby town of Clonee. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature pending the infrastructure necessary to provide safe passage to pedestrians and cyclists and would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made and interdepartmental reports. Their Assessment included the following:

- They have regard to the planning history of the area and provide that the proposal for additional residential development relates to Objective RES OBJ 6 of the Dunboyne/Clonee/Pace LAP 2009-2015 and to phase 2 of an unfinished development permitted under Reg.Ref. DA/40501.
- They have regard to the Board's refusal for phase 1 of the development Reg.Ref.RA170511 – PL17.249404 refers.
- They note the concerns of the Roads Section relative to the lack footpaths, pedestrian crossings and cycleways in the area.
- They provide that a Stage 2 AA (NIS) is not required in this instance.
- They conclude that there are issues in relation to uncompleted works which were conditioned under DA/40501 to the public roads which serve the housing development and requested that F.I be submitted on a number of issues.

Further Information request

This included the following:

- The applicant was requested to submit proposals and a revised site location and site layout plan to show their current landholding in blue, and relative to road layout and access issues including permeability.

- Details relative to ownership issues including regarding the internal access to Holsteiner Park.
- Details relative to boundary treatment.
- To review the submission made and address the issues raised.

Further Information response

O'Connor Whelan Planning Consultants have submitted an F.I response which includes the following:

- They enclose a map showing the ownership details of the applicants in the wider area. None of these lands directly relate to the application site.
- They submit details relative to roads, footpaths and cycle paths within the estate.
- They contend that to request major infrastructural roads outside the site to facilitate these 6no. previously approved dwellings is not reasonable, sustainable or financially viable.
- They have regard to the application for 32no. dwellings on the adjoining lands Reg.Ref. RA191224 refers. They provide that the works applied for as part of the F.I request are identical to those sought in that application.
- They refer to revised drawings submitted to show access roads, footpaths and cycle paths.
- The current application merely provides for new houses on existing sites in the middle of an existing housing development.
- They include details relative to legal rights to access the lands in Appendix 1. This demonstrates that the applicants have legal rights to access these lands via the existing Holsteiner Park internal access roadway.
- Details of boundary treatments have been submitted on the revised drawings.
- They provide a response to the submissions made relative to the impact of the proposed development.
- Revised Public Notices have been submitted.

Planner's response

The Planner had regard to the F.I submitted and their response included the following:

- They note the Report of the Roads Section and that the applicant has not included any of the required infrastructure works within the red line boundary and is not proposing any of these works as part of the current application.
- They consider that to permit further residential development in this location in the absence of footpaths, cycle paths, pedestrian crossings etc to community and social facilities in Clonee would endanger public safety by way of traffic hazard.
- They note the details submitted regarding legal rights to access lands via the existing internal access roadway.
- They consider the proposed boundary treatments to be acceptable.
- They note that the applicant has stated that the current application is consistent with the parent application and is not a piecemeal development.
- They concluded that the proposed development would give rise to additional vehicular pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, pedestrian crossings and public lighting and they consider that planning permission should be refused.

3.3. Other Technical Reports

Transportation Section

They had regard to the planning history of the area and recommended that further information be sought to include a map showing the overall land holding in blue, regard to junction improvements, access, footpaths and cycle ways, permeability/connectivity etc. Also, a revised red line boundary to include all the works.

They advise that if footpaths, cycle paths and pedestrian crossings required to connect the development to the nearby town centre are not provided then the

application should be refused and that this would be in line with the Board refusal in relation to Ref.PL17.249404.

3.4. **Prescribed Bodies**

Irish Water

They have no objections subject to conditions.

3.5. **Third Party Observations**

A Submission has been received from William Doran, Project and Planning Consultant, on behalf of the residents in Holsteiner Park. They have a number of concerns including relative to the public notices, consent of the owner, right of way/ legal right of access, site boundaries, damage to estate road during construction, damage to the estate hedgerow. They also have regard to the planning history of the area and to the Meath CDP and note the Meath of 2019 is considerably different from that in 2004. They note issues of piecemeal development, concerns about traffic and pedestrian safety, privacy, range of residential units and relative to social and affordable housing - Section 96 Part V. Their concerns have been noted in the Planner's Report and are considered further in the context of the Planning Assessment below.

4.0 **Planning History**

The Planner's Report details the extensive Planning History relative to the housing development in the area and of the subject site and this includes the following:

Relative to the subject site

- DA/40501 – Permission granted for a Residential Development of 99 no. 4 and 5 bedroom houses on a site of c. 23.67ha approx. comprising 3 no. phases with 3 no. vehicular access points off the Clonsilla, Dunboyne and Lucan roads respectively, to include all associated site development works, infrastructural works, open spaces and landscaping.
- DA/800769 – Permission granted for a change of house design for a number of houses within the scheme in the Holsteiner part of the development. This

included regard to Reg.Ref. DA/40501 and sought permission to proceed with the construction of the 32no. houses and entrance at phase 2 of this development, removing the connection with the industrial development at Portan, and that such a permission would last 5 years from the date of issue.

- DA/130515 – Permission granted for an Extension of Duration of Reg.Ref. DA/800769 at Phase 2 of DA/40501 and to proceed with the 32 no. houses etc.
- RA/171334 – Permission granted for the construction of change of house type from 4 to 5 bedroom house together with associated garage and all ancillary works. DA/40501, DA/800769 and DA/130515 relate.

Relevant Permissions on adjoining lands

- RA/170511 – Permission granted by the Council but subsequently refused by the Board (Ref. PL17.249404 relates) for 32 houses and associated works. This included a new vehicular entrance onto the L2223 (Clonee to Clonsilla Road) and associated footpath and cycle path, internal access roads and pedestrian and cycling connections to the development permitted under DA/40501 and DA/800769 and all ancillary site infrastructure works etc.

This was refused by the Board for 2no. reasons as follows:

1. *Having regard to the fact that the lands that are the subject of the application for development are not zoned for residential development, and that the only basis for permitting residential development on these lands relates to Objective RES OBJ 6 of the Dunboyne/Clonee/Pace Local Area Plan 2009 – 2015, which stated “To facilitate the completion of the three number phases of the registered ‘Unfinished Estate’ residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference DA/40501...”, and having regard to the fact that the proposed development is materially different to the layout authorised by that planning permission, and does not encompass the entire site of that development, it is considered that the proposed development would represent haphazard and uncoordinated residential development which is not justified by any statutory Development Plan zoning or objective and would, therefore, be contrary to the proper planning and development of the area.*

2. *The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.*
- RA/191224 – Permission was granted to John Hughes & Angela Rice & Mark Rice for 32no. 4 & 5 bedroom houses including a new vehicular entrance onto the L2223 (Clonee to Clonsilla Road) and associated footpath and cycle path provision along the L2223, internal access roads and pedestrian and cycling connections to the development permitted under DA/40501 and DA/800769 and all ancillary site infrastructure works etc. The proposed development also included the provision of a four arm roundabout at the L2223 (Clonee to Clonsilla Road and the R149 (Lucan Road) Junction to the north of the site with associated pedestrian and cycle infrastructure, along with the provision of road improvement works, pedestrian and cycle infrastructure on the eastern side of the R149 extending northwards towards Clonee, and all associated site works.

This was granted by the Council (17/01/2020) subject to 26no. conditions. Condition no. 3 is of note relevant to the current application and is as follows:

- a) *Prior to the commencement of development onsite the applicant shall submit for the written agreement of the PA, detailed designs for the R149/L2223 junction. This shall include, but not limited to, footpaths, cycleways, drainage, public lighting and pedestrian crossings. The applicant shall also submit the detailed design for works required along the R149, including the proposed footpath, cycleway drainage and public lighting, linking the proposed development to the Summerseat residential development.*

- b) *The Applicant shall provide a footpath and cycleway along the R149 and L2223 roadside boundaries.*
- c) *The above works (items a and b) shall be completed in tandem with the completion of the development and phasing of same shall be agreed in writing with the PA prior to the commencement of the development. No more than 12 houses shall be occupied prior to the completion of the above works.*

Reason: In the interests of public safety.

5.0 Policy Context

5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018).
- Design Manual for Urban Roads and Streets (DMURS) (DHPLG and DTTS 2019).
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).

5.2. Meath County Development Plan 2013-2019

Section 2.3.3 refers to Residential Zoned Land Provision Table 2.5 refers. This Section includes that Local Area Plans remain in place for a number of areas including relative to the current application - Dunboyne/Clonee/Pace. It notes that these are to be read as part of the County Development Plan pursuant to Section 11(c) of the Planning and Development Act 2000 as varied. It also provides that these former town plans and the East Meath LAP will be the subject of a separate variation process to align their contents with the Economic Strategy.

5.3. Dunboyne Clonee Pace Local Area Plan 2009-2015

This LAP covers the area close to this site and was amended in March 2015 to insert the following:

RES OBJ 6: *To facilitate the completion of 3 phases of the registered 'unfinished estate' residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference number D4/40501. The 99 residential units at Williamstown Stud were included in the 'committed unbuilt units - Rural Houses in table 2.4 and table 2.5 of the core strategy of the Meath County Development Plan 2103 – 2019, as varied. No extension of the duration of any planning permission shall extend beyond the lifetime of the existing County Development Plan, that being 16th December 2018'.*

It is also of note that as shown on the Land Use zoning Map neither the subject site nor the housing development at the former Williamstown Stud, while within the boundaries of the LAP are included within zoned land.

5.4. Natural Heritage Designations

Rye Water Valley/Cartron SAC (Site code: 001398) SAC is located between Leixlip and Maynooth in Counties Meath and Kildare and extends along the Rye Water, a tributary of the River Liffey.

5.5. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

O'Connor Whelan Ltd, Planning Consultants have submitted a First Party Appeal on behalf of the Applicants. In summary their Grounds of Appeal include the following:

- Failure by the Planning Authority to take into account the context of the planning application.
- Failure of the PA to take into account the planning history of the adjoining sites, which are relevant to the planning application.
- Failure of the PA to take into account that the provision of significant infrastructure outside the site for the provision of six houses is unfeasible.
- The required infrastructure has already been conditioned by the PA in relation to a larger adjoining development.

Context of the Planning Application

- The site is part of a larger residential development, which is either complete, under construction and the subject of a current separate planning application.
- They include details relative to the planning history of the site, having regard to the parent permission Reg.Ref. DA40501 and to Phases 1, 2 and 3 of the development.
- Due to financial circumstances the approved houses were not built and as a result the original permission has lapsed.
- The proposed houses submitted as part of this application are a replication of the units already granted by the Council. They do not believe that the Council factored this into their assessment of the proposed development.
- By way of comparison if for example the applicants had submitted an extension of duration application to the Council, prior to the application lapsing, the Council would have been obliged to extend the duration.
- They request the Board to note that if the 6no. units are not constructed, Holsteiner Park effectively becomes an unfinished estate, with large gaps in the original layout. They include Figure 1. Showing the Original Phased Development.

Planning History of Adjoining Sites

- There is an extensive planning history on adjoining sites whereby the Council granted changes of house types to units granted under the original parent permission. In none of these permissions did the Council seek new

infrastructure outside the immediate site. In this regard the applicants consider that they have been unfairly treated.

- They provide details of these permissions and note the descriptions of development and the conditions therein.
- They consider that this shows that the Council have on multiple occasions granted changes to the overall permitted development without requiring additional infrastructure.

The Requirements of the County Council in relation to 6 Units is Unfeasible

- The requirement to provide for the provision of footpaths, cycle paths, pedestrian crossings and public lighting from the site to Clonee is unfeasible and unreasonable in the context of an application for 6no. houses on this site.
- The provision of this infrastructure entails a distance of c.1.5km from the site entrance to the Main Street in Clonee.
- It will require the acquisition of third party lands for much of the route, design fees, construction costs etc. This is not reasonable, sustainable or financially viable for a proposed development entailing 6no. houses on vacant sites within an existing housing estate.
- It places an unfair burden on the applicants, particularly considering that the developers of the adjoining 61 no. completed units were not required to pay such a contribution.

Adjoining Planning Application

- They have regard to the recent Council permission Reg.Ref. RA191224, where permission was granted for 32no. houses, associated infrastructure and all ancillary works (as noted in the Planning History Section above). This application includes the provision of road improvement works, pedestrian and cycle infrastructure on the eastern side of the R149 extending northwards towards Clonee.
- These infrastructural works are more appropriate to a larger scheme, as opposed to the subject application for 6no. houses.

Conclusion

- They conclude that this planning application is for a like for like replacement of 6no. dwellings already granted by the PA, the permission of which lapsed due to financial and legal circumstances.
- To require the provision of significant infrastructure outside the site for the provision of six houses is unsustainable and unfeasible.
- The required infrastructure has already been conditioned by the PA in relation to a larger adjoining development, granted in January 2020. It is much more appropriate that the infrastructure is delivered as part of this larger development.
- They would strongly argue that this development is not linked to the adjoining phase 3 development.
- If necessary, the applicants are willing to accept a condition from the Board restricting the occupation of some of these dwellings until the construction of the footpaths, cycle lane and public lighting along the R149.
- They note that condition no. 3 of RA191224 suggests that 12no. units can only be occupied when the required infrastructural works at Clonee are completed.
- They suggest if necessary that a similar condition could be implemented on this planning application stating that 2no. units could only be occupied until such time as the footpath, cycle path and public lighting along the R149 are provided.
- They request the Board to overturn the Council's decision and to grant permission.

6.2. Planning Authority Response

Their response includes the following:

- While Reg.Ref. RA/191224 has been permitted by the Council on the 17/01/20 there is no guarantee that the development will proceed and the necessary infrastructure would be delivered in line with that permission.

- The applicant has not demonstrated that the necessary infrastructure will be provided relative to footpaths and cycle paths from the development along the R-149 and the L-2223 and is reliant on another planning application to do so, on lands which are outside their control.
- The application is premature and should be refused until the infrastructure necessary to provide safe passage to pedestrians and cyclists has been delivered.
- They note in Ref.PL17.249404 the Board refused on the basis of lack of connections and permeability to community and social facilities in the nearby town of Clonee.
- They consider that to permit further residential development at this location in the absence of the provision of the necessary infrastructure and connections to the town of Clonee would endanger public safety by reason of traffic hazard and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.
- They ask the Board to uphold their decision to refuse permission for the said development.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The application site is not located on residentially zoned lands in the County Development Plan 2013 - 2019 and is located outside the lands zoned for development in Map 3 covering Clonee village in the Dunboyne Clonee Pace LAP 2009-2015. That LAP was amended in March 2015 to provide a new objective - RES OBJ 6 - which states that it is an objective of the planning authority: *to facilitate the completion of 3 phases of the registered 'unfinished estate' residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference number D4/40501. The 99 residential units at Williamstown Stud were included in the 'committed unbuilt units -Rural Houses in table 2.4 and table 2.5 of the core strategy of the Meath County Development Plan 2103 – 2019, as varied.*

No extension of the duration of any planning permission shall extend beyond the lifetime of the existing County Development Plan, that being 16th December 2018.

- 7.1.2. The proposed development the subject of this application is part of Phase 2 of an unfinished residential estate on lands at the former Williamstown Stud, Clonee Co. Meath as originally permitted under Reg.Ref. DA40501 (now lapsed). Regard is had to the Planning History Section above and it is noted that this development commenced and is substantially completed in Phase 3 of DA40501 at Kribensis Manor and forms the unfinished part of the Holsteiner Park (Phase 2) under DA130515. Therefore, while not located on residentially zoned land it is within the LAP boundaries and it is provided that the principle of development is established under the parent permission and Objective RES OBJ 6 as noted above.
- 7.1.3. The First Party contends that this proposal represents sustainable development as it is part of a previously granted permission that establishes the residential use in this area. The current application seeks completion of Holsteiner Park estate (phase 2 of DA/40501) and does not represent a change to the overall permitted development (the parent permission has now lapsed), but merely an affirmation of what was originally granted. They also consider that to now seek additional infrastructure outside the development on lands not in the ownership of the applicant for these previously permitted 6 units is unjustified and not equitable.
- 7.1.4. Regard is had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. This supports consolidation, the regeneration of brownfield sites and infill development. Chapter 4 refers to *Making Stronger Urban Places* and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*
- 7.1.5. The 'Sustainable Residential Development in Urban Areas Guidelines' 2009 includes regard to infill development in Section 5.9 of the Guidelines, which provides: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the*

need to provide residential infill. This also includes: The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.

- 7.1.6. It has been noted above that the Dunboyne/Clonee/Pace LAP is somewhat out of date and the application is currently located on a greenfield site within an existing low density housing development on unzoned lands, which until recently were part of the rural area, some distance from and not connected with paths or cycleways to the village of Clonee. However, the site is close to but not connected by footpaths or cycleways to residential development in Littlepace and Ongar in Fingal and Hansfield and Clonsilla train stations are accessible by car and lie some distance to the south east.
- 7.1.7. It is of also of note that the current Meath County Council Development Plan will be under review in the near future and it maybe that the planning authority will also seek to review the subject LAP and to examine the context of this development against the needs of the area as part of that process and relative to zoned land in the LAP.

7.2. Background and Justification for Proposed Development

- 7.2.1. The First Party Appeal considers that the Council has failed to take into account the context and background of the planning application. It is noted that under Reg.Ref. DA40501 permission was granted in April 2005 for a residential development of 99no. 4 and 5 bedroom houses on a site c. 23.67ha approx. comprising 3no. phases with 3 no. vehicular access points off the Clonsilla, Dunboyne and Lucan roads respectively, to include all associated works, infrastructural works, open spaces and landscaping. The area has been broken up into three distinct elements, comprising Holsteiner Park (32 units), Cavalier Green (32 units) and Kribensis Manor (35 units). While phase 1 has not been constructed, the majority of the units have been constructed in phases 2 and 3.
- 7.2.2. The current application is for 6no. detached, 2 storey 5 bedroom dwellings with detached single storey garages previously permitted under Reg.Ref. DA40501 which was previously extended but has now lapsed. The First Party contend that it is not an

application for an extension or alteration to the original permission, rather an application for like for like houses in the middle of an approved housing estate. They provide that Phase 3 (which subsequently became Phase 1) is the southern portion on original Williamstown Stud lands. It is called Kribensis Manor, contains 35no. units and is substantially complete and occupied. Phase 2 on the western portion (Holsteiner Park contains 32no. units) and on site it was noted that many of these are now completed and occupied. The 6no. units under consideration are part of the subject planning application and if permitted will complete phase 2. If these are not constructed they consider that Holsteiner Park effectively becomes an unfinished estate, with large gaps in the original designed layout. Also, that failure to grant permission for this proposal will result in a number of vacant sites in the middle of a housing estate which is currently undergoing development. On site I noted that the subject site comprises a greenfield area at the southern end of Holsteiner Park. There are trees and hedgerows along the boundaries and it does not appear as a gap in the estate.

- 7.2.3. A detailed planning history is given of adjoining sites and is noted in the Planning History Section above. It is noted that the Council has granted a number of change of house type permissions on adjoining sites, which were originally granted as of the parent permission without having to provide infrastructure outside these sites. The First Party consider it inequitable for the Council to insist on this infrastructure as part of this planning permission.
- 7.2.4. Regard is had to Reg.Ref. RA/170511 which was subject to appeal and subsequently refused by the Board Ref. PL17.249404 refers. This was for Phase 1 of the development and as noted in the Planning History Section above was refused for reasons of haphazard uncoordinated development which is not justified by any statutory Development Plan zoning and for lack of connectivity and permeability to the village of Clonee. Regard is also had to the more recent permission granted by the Council on this site Reg.Ref. RA191224 and to associated infrastructural issues in this Assessment below.

7.3. Design and Layout

- 7.3.1. The planning application form provides that the area of the site to which the application relates is 1.5ha. A Planning Report by O'Connor Whelan has been submitted. This notes that as shown on the Site Layout Plan the proposed development consists of 6no. detached two storey 5 bedroom houses, with detached single storey garages in a cul-de-sac format with access via the existing Holsteiner Park roundabout and via the estate road to the gated access to the R149.
- 7.3.2. The proposed 5no. bedroom houses are of a similar type with as shown on the floor plans submitted a gross floor area of c.370sq.m and a pitched roof with ridge height of c.10m. The proposed detached garages are shown with a floor area of c.33sq.m and a ridge height of c.4.8m. As shown the proposed houses and layout match that of the existing scheme. While there is no variety in house type, or tenure, these are larger executive style houses, which will be in character with the existing housing scheme in Holsteiner Park. It is considered important that quality external finishes be used and if the Board decides a condition relative to external finishes be included.
- 7.3.3. The proposed houses are on generous plots and private open space standards are exceeded and on-site parking can be provided. In response to the Council's F.I request details on boundary treatment have been submitted and are considered to be in character with the existing scheme. It is recommended that if the Board decides to permit that it be conditioned that a Landscaping Scheme be submitted. This should include regard to retention and augmentation of existing hedgerows as far as possible.
- 7.3.4. It is proposed to connect to public services and it is recommended that if the Board decides to permit that an appropriate drainage condition be included.

7.4. Access/Right of Way

- 7.4.1. While an Observation has not been made relative to the First Party Appeal, issues have been raised in the Submission from local residents relative to the access and right of way to the site via the private road in Holsteiner Park. The Planning Authority F.I request included that the written response of the relevant landowners or documentary evidence be submitted to demonstrate the applicant's legal entitlement to use this access. Appendix 1 of the Applicant's F.I response included a Deed of

Mutual Grants of Easement which they provide demonstrates that the applicants have the legal rights to access these lands via the existing Holsteiner Park internal access roadway. They also reiterate that this application demonstrates that the 6no. houses are part of the original housing scheme and that they are applying for units previously granted.

- 7.4.2. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: “*A person shall not be entitled solely by reason of a permission under this section to carry out any development*”. Under Chapter 5.13 ‘Issues relating to title of land’ of the ‘Development Management - Guidelines for Planning Authorities’ (DoECLG June 2007) it states, inter alia, the following: “*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*”

7.5. Access, Permeability and Connectivity issues

- 7.5.1. The Council’s reason for refusal of the current application concerns these issues. Regard is had initially to the Transportation Section’s recommendations regarding amendments to the internal roads layout and to the Applicant’s response to the Council’s F.I request. This includes a revised drawing showing the access roads and footpaths extended to the south west boundary of the site. They note that turning bays are shown in accordance with current standards. They provide that footpaths and cycle paths within the development connecting all 3 phases of the development demonstrating capacity in accordance with DMURS.
- 7.5.2. The Council’s Transportation Section requested that the overall landholding be shown in blue. It is provided that a red line boundary to include the works is shown and in response to the Council’s F.I request. The Transportation Section notes that the red line boundary has been revised to include the turning bay adjacent to dwellings nos. 7&8 however, it has not been revised to include the footpath/cycle path from Kribensis Manor. A map is also included to show the applicant’s landholdings in the area in blue. It is noted that these areas are not adjoining the subject site.

- 7.5.3. Regard is had to DMURS which seeks to increase connectivity and permeability in the design of residential streets. Design Principle 1 seeks: *To support the creation of integrated street networks which promote higher levels of permeability and legibility for all users, and in particular more sustainable forms of transport.* While regard is had of these issues relative to permeability and connectivity, it must be noted that in accordance with DMURS and the Planning Guidelines permeability and linkages are to be encouraged as being in compliance with good practice, provision of neighbourhoods and proper planning and sustainable development.
- 7.5.4. The overall development is bounded by the R-149 and the L-2223 which are very busy roads. There are no footpaths or cycle paths along these roads connecting Holsteiner Park to Clonee village centre. The Transportation Section's response to the F.I submitted is concerned that the applicant has not demonstrated footpaths, cycle paths and pedestrian crossings required to connect the development to the local road network and the nearby village centre and considered the application to be premature and recommended that the proposed development should be refused. They also noted that this opinion would be in keeping with that of the Board decision to refuse in relation to PL17.249404.
- 7.5.5. Permission has recently been granted by the Council for development of these adjoining lands under Reg. Ref. RA/191224. Condition no. 3 of this permission has been noted above. The First Party note that this more recent application includes: *the provision of road improvement works, pedestrian and cycle infrastructure on the eastern side of the R149 extending northwards towards Clonee.* They consider that the required infrastructure for the current proposal has already been conditioned by the Planning Authority in relation to the larger adjoining development, granted in January 2020. Also, that it is much more appropriate that the infrastructure be delivered as part of the larger development.
- 7.5.6. The Council's response notes that there is no guarantee that that development will go ahead and that the necessary infrastructure will be delivered in line with the permission. No development has as yet taken place on this adjoining site which is greenfield. However, it is of note that the First Party considers the requirement for the provision of such infrastructure external to the site is unjustified relative to the locational context, scale and nature of the proposed development, which should be seen more in the context of completion of Phase 2 of Holsteiner Park. They submit

that the Board should consider the proposal positively and have regard to the planning history of the site.

- 7.5.7. Therefore, in this case, it would appear, that the proposed development seeks to rely on the external infrastructure of that permission relative to adjoining lands recently granted by the Council. Having regard to these issues I would be concerned that the proposed development is premature pending the provision of the infrastructure as per condition no. 3 of RA191224. To grant such a development without such linkages would be piecemeal and it is noted that the original parent permission is now defunct. Also it would set an undesirable precedent for other such residential development in peripheral locations outside of zoned lands in the designated settlement pending the availability of footpaths and cycleways to ensure that the proposal is not entirely car dependant and to provide connectivity to services in the village of Clonee.

7.6. Screening for Appropriate Assessment

- 7.6.1. The Planning Report submitted notes that the only Natura 2000 site within 15km is the Rye Water Valley/Cartron SAC (Site Code 001398), which is approx. 4.25km to the south west of the site. It is provided that, there is no potential pathway links between the proposed development and this site to the SAC. The proposed development is to be connected to public sewer, public water and public drain and the site is to be fully serviced.
- 7.6.2. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above European Sites, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

27th of May 2020