



An
Bord
Pleanála

Inspector's Report ABP-306640-20

Development	Demolition of existing building and the construction of 48 no. two storey houses, provision of public open space and all associated site works.
Location	Kinsealy Lane, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0557
Applicant(s)	Kinsealy Lane Partnership
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Observers	Marie Gabbett & Marc Reidy Anthony & Susan Gaynor Peter Nolan
Date of Site Inspection	13th May 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site comprises of part of a large field on the western side of Kinsealy Lane to the south of Malahide, Co. Dublin. The state site area is 1.57 hectares. The field is relatively flat and was in agricultural use on the day of the site visit. The south eastern corner contains an agricultural/ warehouse building with a separate entrance onto the public road. There are existing agricultural entrances to the north of this unit and at the northern boundary of the site onto Kinsealy Lane. Site boundaries consist of a mix of mature hedgerows and trees. There is no boundary on the western side of the site as the fields extends westwards and to the south west. There is a footpath along the front of the site along Kinsealy Lane. Electricity powerlines cross the site.
- 1.2. To the south of the site is Connolly Avenue, a short cul-de-sac of detached houses. Detached houses with direct access onto Kinsealy Lane are located to the north and east of the site. Recently constructed houses are located to the south east of the site as Castleway with further residential development to the south along Kinsealy Lane.
- 1.3. The site is approximately 1.7 km to the south west of the centre of Malahide Village. One of the entrances to Malahide Castle and Park is approximately 310 m from the subject site. Kinsealy Lane connects Malahide to Kinsealy Lane to the south. Nearest bus stops are on the Dublin Road, approximately 1 km to the west or on 'The Hill Road', 1.2 km to the east.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- The demolition of existing building with a given floor area of 1,054.8 sq m
 - The construction of 48 no. two storey dwellings as follows:

Type	Bedrooms	Number
Detached	4	6
Semi-detached	4	10

Terraced/ Semi-detached	3	23
Semi-detached – end houses	3	2
Terraced	2	7

The proposed development to provide for a density of 30.57 units per hectare.

- Provision of vehicular access to serve the development and 6 no. separate vehicular access points to serve 6 no. detached dwellings facing Kinsealy Lane, and provision of secondary agricultural access west of proposed dwellings
- Provision of shared surfaces and landscaped public open space (0.1774 hectares)
- Provision of temporary foul sewage holding tank and lifting station
- Provision of SuDs surface water drainage and dry detention basin with underlying filter stone to serve surface water
- All other associated site development works, including ESB substation, landscaping and boundary treatments, and all ancillary infrastructural and necessary engineering works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for a single reason as follows:

‘The subject site is located with the catchment area of the Connolly Avenue Pumping Station. Connolly Avenue Pumping Station is operating at full capacity and has no capacity to facilitate the proposed development. While it is noted that it is proposed to upgrade this station under the Kinsealy Local Network Reinforcement Project (LNRP) Irish Water have stated that this work will not be completed until Q4 2021, and this timeline may be subject to further change. Therefore, it is considered to permit the proposed development at this time would be premature by reason of the existing deficiency in the provision of sewage facilities within the vicinity to cater for

the development and would as a consequence be prejudicial to public health and be contrary to the proper planning and sustainable development’.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning report reflects the decision to refuse permission for the proposed development due to the lack of capacity in the local foul drainage network. In addition, a number of other issues were identified in the Planning Authority Case Officer’s report including a shortfall in public open space but a contribution in lieu would be accepted, provision of additional footpaths and revised sightline drawing.

3.2.2. **Other Technical Reports**

Water Services Department: In consideration of the Irish Water report, permission should be refused on the basis of prematurity. Any permitted houses within the 35 m buffer zone around the pumping/ lifting station shall not be occupied prior to its decommissioning. Surface water and flood risk were considered to be acceptable.

Environment and Water Services Department: No objection subject to recommended conditions.

Housing and Community Department: Contact has been made and final details can be agreed on receipt of planning permission.

Parks Division: No objection subject to recommended conditions.

Transportation Planning Section: Further information requested in relation to the provision of suitable footpaths, removal of an agricultural entrance and a revised sightline drawing, including consent for works where necessary.

3.2.3. **Prescribed Bodies Report**

Irish Water: The submitted report outlines capacity constraints in the local wastewater network and further necessary studies to be undertaken before any new waste connection can be made. The Kinsealy Local Network Reinforcement Project (LNRP) is scheduled for completion by Q4 2021.

Dublin Airport Authority (daa): The proposed development is located within Noise Zone C and it is an objective of the Fingal Development Plan to control noise

sensitive developments within Zone C designated lands. Further information is requested in relation to the provision of a noise assessment, to demonstrate that internal noise levels are appropriate for habitable rooms and noise mitigation measures to be undertaken in accordance with the Fingal Development Plan 2017 – 2023.

3.2.4. **Objections**

A number of letters of objection to the proposed development were received. These were submitted on behalf of the Kinsealy Residents (Kinsealy Lane and Castle Way) and individual members of the public.

Issues raised included the following, in summary:

- The proposed density is excessive at 30.57 units per hectare, especially when compared with neighbouring developments at Castleway at 10.9 units per hectare and Sleepy Hollow at 11.1 units per hectare.
- Excessive height of new development especially when compared to existing houses.
- Potential for overlooking.
- Proposed townhouses are visually obtrusive and are contrary to the zoning objective vision.
- Very little difference between this application and a previously refused development under P.A. Ref. F19A/0207 other than a reduction of two houses (50 previously, now 48).
- Health and safety concerns regarding the provision of an access for agricultural use that will allow agricultural traffic to pass through the site.
- Request that details of this agricultural traffic be provided including types of vehicle, frequency, and types of chemicals/ pesticides to be used.
- Wish to clarify matters regarding the Sustainable Use Directive (SUD) introduced in November 2015. Concerns have been communicated separately to the Department of Agriculture, Food and the Marine (DAFM).
- Concern regarding traffic in the area especially where public transport is not easily available.

- Concern raised regarding traffic safety in an area of substandard roads and with a new entrance proposed on a hillock which is a significant blind spot.
- Capacity constraints in the foul water drainage network and the system proposed on a temporary basis is not acceptable.
- Need for upgrade works in the area.
- Proposed concrete post and concrete panel fence is not suitable in this location.
- Proposed house design is out of character with the existing form of development in the area.
- Oppose the undergrounding of powerlines especially where access to existing houses is required.
- Reference made to a refusal of permission for a similar development in Riverstick, Co. Cork as it would be 'out of character' with the village.
- Contravention of zoning with reference to area of land to the west of the site that is not zoned for residential development.
- Insufficient provision for cyclists and pedestrians.
- Incorrectly drawn maps have been submitted with the application.
- Concern raised over the use of a petrol interceptor on site.

4.0 Planning History

P.A. Ref. F19A/0207 refers to a July 2019 decision to refuse permission for a residential development of 50 houses on this site to the west of Kinsealy Lane, Malahide. Reasons for refusal included in summary:

1. The proposed use of a temporary pumping station and underground foul water holding tank did not comply with Objective WT12 of the Fingal Development Plan 2017 – 2023, which requires a suitable buffer zone around such pumping stations. The development would be prejudicial to public health.
2. Potential traffic hazard as the applicant did not demonstrate that sufficient sightlines could be provided.
3. The site layout with particular reference to public open space was of a poor standard and the development if permitted would seriously injure the amenities of the area.

P.A. Ref. F04A/0613 refers to a June 2004 decision to grant permission for a polythene clad 3 bay growing tunnel.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Under the Fingal Development Plan 2017 – 2023, the majority of the site is zoned 'RS' Residential, and which seeks to 'Provide for residential development and protect and improve residential amenity'.

A section of land to the west of the site, is zoned 'GB' Green Belt and which seeks to 'Protect and provide for a Greenbelt'.

- 5.1.2. The 'RS' zoned part of the site is located within the Development Boundary of Malahide and is located within the Outer Airport Noise Zone.
- 5.1.3. Malahide is included within 'Consolidation areas within the Gateway' with potential for 1144 housing units (Table 2.8 Total Residential Capacity provided under the Fingal Development Plan 2017-2023). The following sections of the Fingal Development Plan 2017 – 2023 are considered to be relevant:

- **Chapter 3 – Placemaking.**

Objective PM31 : 'Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the *Urban Design Manual – A Best Practice Guide* (2009)'.

Objective PM38: 'Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments'.

Objective PM41: 'Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised'.

- **Chapter 7 – Movement and Infrastructure**

Objective WT12: 'Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone

should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.

- **Chapter 12 – Development Management Standards**

Objective DMS03: ‘Submit a detailed design statement for developments in excess of 5 residential units or 300 sq m of retail/commercial/office development in urban areas’. This is similar to the twelve criteria to be demonstrated in the ‘Urban Design Manual’.

Objective DMS24: ‘Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3’. Table 12.1 refers to houses and Table 12.3 refers to minimum room sizes and widths for houses and apartments.

Table 12.5 provides details on ‘**Open Space Hierarchy and Accessibility**’.

Objective DMS57: ‘Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms’.

Objective DMS87: Sets out the minimum amount of private amenity space for new housing.

5.2. National Guidance

5.2.1. National Planning Framework – Project Ireland 2040

The National Planning Framework (NPF) recommends compact and sustainable towns/ cities and encourages brownfield development and densification of urban sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Other relevant policies from the NPF include the following:

- NPO 6 – Regenerate/ rejuvenate cities, towns and villages.
- NPO 13 – Relax car parking provision/ building heights to achieve well-designed high-quality outcomes to achieve targeted growth.

5.2.2. Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual - A Best Practice Guide (DoEHLG, 2009).

These Guidelines promote higher densities in appropriate locations. A number of urban design criteria are set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. Increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

5.2.3. The following are also relevant:

- **Design Manual for Urban Roads and Streets (DMURS).**
- **Urban Development and Building Heights - Guidelines for Planning Authorities (DoHPLG, 2018)**
- **Permeability Best Practice Guide (NTA, 2015).**
- **National Cycle Manual (NTA, 2011)**

5.3. Natural Heritage Designations

5.3.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicants have engaged the services of John Spain Associates to appeal the decision of Fingal County Council to refuse permission for this residential development.

Issues raised in the appeal include:

- Contact has been made with Irish Water and the issue of prematurity can be addressed in full.
- Connolly Avenue pumping station is not the main issue of concern as a new pumping station is to be constructed to the east of Kinsealy village.
- A contract has been issued for the new pumping station and will be complete by Q4 2021.
- Interim measures can be provided until such time as the new pumping station is operational.
- Repairs to existing infrastructure can provide the necessary capacity to serve this development.
- Revised drawings have been provided to address the issue of wrongly described houses.
- Landscaping details have been revised and detailed.
- Boundary details can be revised.
- Overhead powerlines can be undergrounded.
- There is a footpath on the eastern boundary of the site which can be widened to 2 m where this is required.
- Sightlines are in accordance with DMURS.
- Access to the agricultural lands is necessary in the location proposed.
- This is considered to be an infill development and open space is provided at 11.3% of the site area.
- Revised taking in charge details are provided.
- Responses have been made to the third-party comments.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority have responded that the development was considered in the context of the Fingal Development Plan 2017 – 2023. Uncertainty remains in relation to the fact that connections may be possible subject to the completion of

upgrade to services in the area. The development if permitted may negatively impact on the area where existing infrastructural issues are known. The proposed ratio by the applicant of removal (3x surface water to 1x foul) would need to be increased by a factor of 3+ to allow for fluctuations especially in the winter season.

6.2.2. The Planning Authority have also requested that the Board consider issues relating to boundary treatment, shortfall in public open space having regard to the development plan, the omission of the agricultural entrance in the interest of traffic safety and that the development should be completed to Taken in Charge standard. In the event that the appeal is successful, a financial contribution in accordance with the Fingal County Council Section 48 Development Contribution Scheme should be provided for.

6.3. **Observations**

A number of observations have been received and are similar to the points made in the Objections/ Observations to the original application. In summary these observations include:

- The proposed density is too high in this area.
- Concern about the use of the term 'Urban Design' in such a rural area.
- The Traffic congestion has not been addressed with an additional 100 cars in the area. Reference the potential impact on the Malahide to Donabate walking/ cycling route. Also concern raised about the use of the site as an access for agricultural lands.
- Pedestrian safety was also raised as an issue of concern.
- Potential overlooking and loss of privacy for the residents of Connolly Avenue.
- The height of the proposed house is not acceptable in this area.
- Potential for flooding arising from the development.
- Concern about the temporary use of a treatment system adjacent to existing houses.
- Increase in noise, air and water pollution as a result of this development.
- Reference to the piping of a ditch was never agreed.

- The proposed use of concrete post and panel fencing is not acceptable or suitable in this area.
- There is a lack of amenities in the area with particular reference to shops and schools.

6.4. Prescribed Bodies Comments

The Dublin Airport Authority have made a further comment but the issues raised are as per their original report and refer to the location of the development within Noise Zone C, full noise assessment to be undertaken, applicant to demonstrate that internal noise levels are acceptable and appropriate noise mitigation measures to be proposed.

7.0 Assessment

7.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings:

- Principle of Development
- Density of Development
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Water Supply and Drainage
- Traffic and Access
- Other Issues
- Appropriate Assessment Screening

7.2. Principle of Development

7.2.1. The site is zoned for residential development (RS zoning objective) and is located within the development boundary of Malahide. The development of houses on these lands is therefore acceptable in principle.

- 7.2.2. I note Section 5.19 of the appeal and where it states 'The subject site represents an infill site, which is partially developed..'. I would disagree with this description, as the area is predominately rural with new build housing located to the east of Kinsealy Lane and to the south of Connolly Avenue. Connolly Avenue consists of detached houses on their own plots and most houses appear to be in place for some time. This is not an infill development as would be expected in a town centre or urbanised area. The term is loosely used by the applicant and suggests a totally different nature of development. This is a residential development on a greenfield site.
- 7.2.3. The site is located on the southern fringe of Malahide and although it is provided with footpaths and is within walking distance of Malahide Castle & Park, it is a long walk to the village and railway station. I also have to point out that the site is not 'partially developed' except for a large warehouse/ shed onto Kinsealy Lane that is proposed for demolition as part of this development. The applicant wishes to retain an access through the site to agricultural lands to the west, this issue is addressed in detail later in the report, but it does indicate that the character of the area is still partially rural.
- 7.2.4. I note that part of the site is on lands zoned 'GB' Greenbelt, however this is at the point of access to the agricultural lands to the west of the site and I am satisfied that the residential development does not encroach onto the greenbelt lands.

7.3. Density of Development

- 7.3.1. The issue of density was raised in a number of the letters of objection to the development. The site is zoned for residential development and the Fingal Development Plan does not limit/ state density on such RS zoned lands, except in certain specified circumstances. The proposed density at 30.57 units per hectare is acceptable.
- 7.3.2. As already reported, the site is outside of walking distance from Malahide village and railway station. Public transport use is likely to be low in the area and the development is likely to be car dependent. Shops and school are also outside of comfortable walking distance though cycling is possible. I am not aware of any proposals to improve public transport in the vicinity of the site that would directly benefit the area/ encourage modal shift. The density of development is therefore acceptable and appropriate for the maximum efficient use of such residentially zoned

lands whilst acknowledging that car dependency is likely and that a higher density of housing may not be appropriate.

7.4. Design and Impact on the Character of the Area

- 7.4.1. The proposed layout is relatively simple, with a single access from Kinsealy Lane terminating in cul-de-sac with houses to the south; a road looping around a central piece of public open space (1,574 sq m), with short cul-de-sac to the north (by two) and to the west, with houses onto the southside of this road network. The houses therefore face onto the central public open space area. Six large detached houses face onto Kinsealy Lane, in an attempt to have regard to the original form of development, that is detached houses on their own sites.
- 7.4.2. The proposed houses are to be finished in a mix of brick and render and there is a common uniformity in the design throughout the site. Houses are suitably designed to face public areas, i.e. house number 7 which addressed Kinsealy Lane as well as the main access road to the site. The open space area as described, is suitably overlooked by housing therefore providing for good levels of passive surveillance.
- 7.4.3. In general, the design and layout is acceptable, however there is little to indicate that the development has had regard to the established character of the area and could be a development found anywhere in the country. I note that brick is extensively used in the newer developments in the area including in Kinsealy Village. I also note that stone is commonly used in the area but not on this site, other than to form part of the boundary along Kinsealy Lane. The applicant has proposed the extensive use of concrete post with either concrete or timber panelling throughout the site. This is acceptable but not at the amount proposed on this site. If permission is to be granted, revised boundary details should be provided with greater use of concrete block walls suitably capped and finished.
- 7.4.4. The houses that address Kinsealy Lane are at best, the minimum attempt possible at having regard to the original form of detached houses in the area. I would suggest that a greater variety in the house types should be provided here; this could be in the form of fenestration, material finishes, mix of materials and preferably all six houses should be of a distinctly different design. There is an opportunity here for providing suitably houses that have regard to the character of the area and which do not have to follow the design of the remaining houses on site.

7.5. Impact on Residential Amenity

- 7.5.1. Proposed room sizes including storage provision are acceptable and are in accordance with Table 12.1 and 12.3 of the Fingal Development Plan 2017 – 2023. All houses are provided with more than the required private amenity space. I note that a number of the houses have rear gardens that are less than the normal 11 m with garden depths as short as 9.023 m in the case of houses number 15 and 16. The land to the south is either used for non-residential purposes or forms the private amenity spaces of some of the houses on Connolly Avenue and therefore issues of overlooking do not arise. Overall, the proposed houses would provide for a high quality of amenity for future residents.
- 7.5.2. As stated, I do not have concerns in relation to overlooking of existing houses in the area. Similarly overshadowing leading to a loss of daylight/ sunlight is not foreseen, through the suitable separation distances proposed on site and having regard to the site layout.

7.6. Water Supply and Drainage

- 7.6.1. The water supply and surface water drainage provision were considered to be acceptable by Irish Water/ the Fingal County Council Water Services Planning Section. A flood risk assessment was submitted with the application and this was also considered to be acceptable by the Water Services Planning Section. The issue of flooding was raised by some of the observers but I am satisfied that this issue has been adequately addressed.
- 7.6.2. Permission was refused by the Planning Authority on the basis that the development is within the Connolly Avenue catchment area and as this is operating at full capacity, the development cannot be facilitated. Irish Water propose under the Kinsealy Local Network Reinforcement Project (LNRP) to upgrade the network, this is not due to be complete until Q4 in 2021. The applicant has dismissed this reason and has contacted Irish Water in this regard. It is proposed that capacity will be available in a new pumping station to the east of Kinsealy Village. Short terms measures have been proposed that would allow for the continued use of the existing network until such time as the new pumping station is fully operational.
- 7.6.3. I would agree with the Planning Authority decision and comments made following the receipt of the appeal. There is no real certainty that a permanent solution to the

need for a pumping station can be provided in the short to medium term. Irish Water have not definitively stated that the new pumping station will be provided; they state that it is to be provided by Q4 in 2021 but also state that 'this may be subject to change'. I am aware that there is a significant lead in time from a grant of permission to the ability for a house to be occupied, however the lack of certainty is an issue of concern.

- 7.6.4. The Irish Water report also lists a number of other projects in the area that require completion such as the completion of the Swords-Malahide Drainage Area Plan (no completion date provided) and all existing temporary permitted private pumping stations to be decommissioned on completion of the LNRP – I assume this will be post Q4-2021. The Irish Water report states that 'The upgrades and modelling outlined above must be completed and in function prior to the new waste connection'. This suggests that no new connection will be possible for some time post Q4 – 2021.
- 7.6.5. The applicant has identified measures that can be undertaken to provide additional capacity in the existing network/ system in the interim. This appears to consist of repairs to the existing network and also would remove misconnections where surface water is discharged into the existing foul drainage network. It is stated in the appeal that 'Such improvement works which are located outside of the application site would be carried out by or on behalf of Irish Water, a statutory undertaker'. I see no reference to a commencement or completion date for such necessary works by Irish Water. The appeal response by the Fingal County Council Senior Planner references a need for the removal ratio of surface water to foul (proposed at 3:1) to be increased threefold to cater for fluctuations due to the winter season and other factors; this is noted.
- 7.6.6. A temporary foul water lifting station and storage tank is proposed to the south west of the site, adjacent to units no. 24 and 25. Such a facility would require a 35 m radius, buffer zone which directly affects 8 houses (19 to 26) and one attached house (27). No houses could be occupied within this buffer zone in accordance with Objective WT12 of the Fingal Development Plan 2017 – 2023.
- 7.6.7. The Fingal County Council Water Services Department have recommended that the development be refused permission on the basis of prematurity. I would agree, in

that there are a number of uncertainties with a grant of permission in relation to foul drainage. Firstly there is no capacity in the current network, secondly the permanent solution of a new pumping plant will not be available until Q4 – 2021 at best and thirdly, the temporary solutions which include repairs to the existing network, have no definite timescale. I would consider it unreasonable to grant permission for this development when a wastewater cannot be adequately treated due to a deficiency in the existing network. The proposed development is therefore premature pending the completion of necessary upgrades to the foul water network.

7.7. Traffic and Access

- 7.7.1. The general road layout is acceptable. The cul-de-sac at the front of house number 20 reduces the potential length of street to the south of the site such that it could encourage speeding in this residential area. This speed control measure though creates a potential traffic hazard in that in order that access to the agricultural lands to the west is to be made, all vehicles have to pass a greater number of houses than if the street was a straight through with no cul-de-sac. I am assuming that all street widths within the site and radii on corners are suitably designed for agricultural vehicles. I note that DMURS suggests a radius of 3 m for local streets, the applicant is proposing radii of 4.5 m within the development. The Fingal Transportation Planning Section have identified this as an issue of concern and should be omitted from the development.
- 7.7.2. The appeal proposes the retention of this access and I would have concerns regarding this. It is stated that no alternative is available, that is a matter for the applicant to address in their design and not an issue that is to be remedied at application stage. Agricultural traffic is very different to residential traffic and the proposed means of access to the agricultural land is somewhat convoluted, giving rise to potential conflict with vulnerable road users such as pedestrians/ children accessing the central open space area. The proposed development as submitted may give rise to a traffic hazard.
- 7.7.3. No issues of concern were raised regarding the capacity of Kinsealy Lane to take additional traffic. Sightlines were requested to be revised by the Fingal Transportation Planning Section, by way of a further information request. I note that all houses are provided with two car parking spaces, in curtilage.

7.7.4. The provision of a footpath along the eastern side of the site (on the western side of Kinsealy Lane) was referenced in the Planning Authority Case Officers report and the Fingal Transportation Planning Section report. There is a footpath already in place along this section of the road and which is approximately 2 m in width. Almost midway along this stretch of road is a fall/ rise in the road which was referenced in some of the letters of objection. I do not foresee this as a matter of safety concern, however the applicant and Fingal Transportation Planning Section have not proposed any alterations to the existing footpath when vehicular access to house number 1 to 6 will be directly over the footpath and onto the road. At a minimum I would suggest that the footpath here may require reconstruction to facilitate the new entrances onto Kinsealy Lane. The existing footpath edge/ kerb appears too high for safe access for vehicles.

7.8. Other Issues

7.8.1. The daa have reported that the site is located within Noise Zone C. This issue was not addressed in the Planning Authority report. I do not see any consideration of this by the applicant as no noise assessment was submitted with the application. The Planning Report (prepared by Hughes Planning) references this issue but states that a report will be prepared by an acoustic specialist at detailed design stage. This issue has not been adequately considered and although such matters can be addressed, they should have been done so on submission of the application.

7.8.2. Concern was raised in the letters of objection/ observations regarding the use of the phrase 'urban design' throughout the application. I appreciate the existing rural character of the area but the site is zoned for residential use and any development in excess of 5 housing units is to provide for a detailed design statement in accordance with Objective DMS03 of the Fingal Development Plan 2017 – 2023. Such a design statement is to have full regard to the Urban Design Manual (DEHLG, 2009). The term 'urban design' is therefore appropriately used and the submitted details in this regard are acceptable.

7.8.3. A shortfall of 3,700 sq m in public open space is identified but how this shortfall is arrived at is not detailed in the Planning Authority or Parks Division reports. The applicant is satisfied that they have provided for adequate public open space to serve this development.

7.9. Appropriate Assessment Screening

- 7.9.1. The subject site is located approximately 3 km to the south west of Malahide Estuary SAC (site code 000205)/ SPA (site code 004025) and 2.7 km to the north east of Baldoyle Bay SAC (site code 000199)/ SPA (site code 004016). The applicant stated in the Planning Report, that an appropriate assessment screening was undertaken, and no impacts were identified that would require an Appropriate Assessment.
- 7.9.2. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, it is considered that the development would not give rise to a significant effect individually or in combination with other plans or projects on an European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. The site of the proposed development is within the Connolly Avenue Pumping Station catchment and which is at capacity. There is a proposal to upgrade the foul drainage system under the Kinsealy Local Network Reinforcement Project (LNRP) and connect into a new pumping station in Kinsealy to the south of the site.

Having regard to

- (a) the existing constraints at the Connolly Avenue Pumping Station, which is currently operating beyond its capacity,
- (b) the proposed temporary measures including repairs to the existing foul drainage system and for which no completion date is provided,
- (c) the timeframe of the completion of the Kinsealy LNRP and new pumping station is not before Q4 – 2021 and may be subject to change,
- (d) the timeframe for completion of the Swords – Malahide Drainage Plan, which is not specified,

(e) the need to decommission existing permitted temporary pumping stations in the area before any new connections can be made,

it is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of sewerage facilities and the period within which this constraint may reasonably be expected to cease and would be prejudicial to public health.

2. Having regard to the layout of the proposed development and the use of the internal street network to serve agricultural lands to the west of the site, it is considered that the proposed use of residential streets by such agricultural traffic would endanger public safety by reason of traffic hazard and would lead to conflict between road users, that is, vehicular traffic and vulnerable pedestrians and cyclists.

Paul O'Brien

Planning Inspector

25th May 2020