



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307599-20

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<b>Development</b>	Demolition of structures and construction of a mixed use development.
<b>Location</b>	Ratoath, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA190359
<b>Applicant(s)</b>	Rybo Partnership.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Rybo Partnership.
<b>Observer(s)</b>	Mruigtuaithe Residents Association. Cllr. Gillian Toole Clonkeen Residents Association
<b>Date of Site Inspection</b>	22 <sup>nd</sup> of October 2020.
<b>Inspector</b>	Stephanie Farrington

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## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.071ha, is located to the south west of Ratoath Village, Co. Meath. Fairyhouse Road (R155) forms the northern and western boundary of the site. Meadowbank Hill and the Broadmeadow River are located to the south and lands to the east primarily comprise of undeveloped backlands.
- 1.2. The northern portion of the site is currently occupied by 2 no. derelict houses, sheds and ancillary out-buildings. The remainder of the site is undeveloped, overgrown and covered in mature/semi mature planting. The Broadmeadow River runs east to west along the southern boundary of the site. A right of way is indicated along the eastern bank of the watercourse in the Site Location Plan (Drawing no. P100).
- 1.3. The site is roughly triangular in shape and slopes from the north to the south with levels varying by c. 6m. Access to the site is currently provided via a number of access points from the R155 including 2 no. access points between the Fairyhouse Road Roundabout and the signalised junction at Fairyhouse Road/Meadowbank and access points to the existing buildings to the north of the site.
- 1.4. The application boundary extends to the west and north to include lands within the ownership of Meath County Council to facilitate the delivery of the vehicular access and footpath upgrades. A letter of consent from the planning authority is submitted in conjunction with the application.

## 2.0 Proposed Development

- 2.1. The development, as originally proposed, comprised the demolition of all structures on-site and the construction of a mixed-use scheme ranging in height from 1 no. to 5 no. storeys with partial basement.
- 2.2. The following mix of uses was proposed:
  - 57 no. apartments (8 no. 1-bed, 44 no. 2-bed and 5 no. 3-bed)
  - 3 no. retail units (retail unit 1-409 sq.m., unit 2-169.7 sq.m. and unit 3-94.3sq.m.)
  - Restaurant (882.4 sq.m.)

- Healthcare centre (1,613.7 sq.m.)
- 2.3. Vehicular access is proposed via 2 no. entrances from Fairyhouse Road. The development includes 113 no. car parking spaces within basement undercroft and at-grade and 185 no. cycle parking spaces.
- 2.4. The development includes hard and soft landscaping open spaces, a pedestrian bridge traversing Broadmeadow River; upgrades to footpaths and a cycle path along Fairyhouse Road.
- 2.5. Site services includes connection to public water supply, provision of new connection to public sewer and surface water discharge to watercourse.
- 2.6. The proposed development comprises 2 blocks separated by a central plaza. The commercial building is proposed to the north of the site, is 4 storeys in height and presents a curved frontage addressing the profile of the streetscape at Fairyhouse Road. The “E” shaped residential block is located on the central and southern portion of the site and is 4 storeys in height with set-back 5<sup>th</sup> storey and separated by open space courtyards.
- 2.7. Amendments were made to the design of the proposal in response to Meath County Council request for further information. The proposed amendments included:
- Changes to the material treatment to reduce the building height and bulk along the east façade at the northern end of the site.
  - Reduction in footprint of the building with relocation of the staircore c. 3.2m further away from the boundary to the east at northern end of the site.
  - Inclusion of privacy screens on eastern elevation of all balconies on residential Blocks 1,2 and 3 to mitigate against overlooking into adjoining property.
  - Reduction in size of each floor of commercial element of scheme by 434.6 sq.m.
  - Revisions to internal circulation to facilitate wayleave and Irish Water requirements.

## 3.0 Planning Authority Decision

### 3.1. Decision

Meath County Council issued a decision to refuse permission for the proposed development in accordance with the following reasons and considerations:

- 1. It is considered that the shortfall of car parking for the proposed development is inadequate and falls far short of the standards set out in Table 11.9 of the Meath County Development Plan, 2013-2019. The proposed development would therefore materially contravene said table in the Meath County Development Plan 2009-2013 objective ECON DEV OBJ 6 of the Ratoath Local Area Plan 2009-2015 in this regard, and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the location of the proposed development, adjacent to the Broadmeadow Stream and located partially within Flood Zone A, the applicant has not submitted a justification test for the proposed development as is required by the DOEHLG/ OPW publication "The Planning System and Flood Risk Management, Guidelines for Planning Authorities". The Flood Risk Assessment submitted with the application contains inconsistencies which do not facilitate a proper and comprehensive analysis of flood risk on the subject site by the Planning Authority. It is therefore considered that the proposed development would be contrary to policy WSPOL 29 of the Meath County Development Plan 2013-2019 as varied and would be contrary to said Section 28 Guidelines. Accordingly, to grant the proposed development would be contrary to the proper planning and sustainable development in the area.*
- 3. The proposed development, as presented, is partially located on lands zoned FI – Open Space in the Ratoath Local Area Plan 2009-2015 and as such is considered to materially contravene the relevant zoning objective which is to "provide for and improve open space for active and passive recreational amenities".*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (Initial Report dated 21<sup>st</sup> of May 2019)

- The majority of proposed residential use is located on lands zoned for FI Open Space purposes. The development, as proposed is considered to be in conflict with the open space zoning objective. The question of whether the proposal materially contravenes the zoning objective is an issue that is not addressed within the application.
- The development is located within 250m walking distance of main street and is considered to have the characteristics of an edge of centre site. Having regard to existing vacancy levels in the village a retail impact statement should be submitted.
- The stated density of 53.2 units per ha is questioned, the density is in the region of 106 dwellings per ha when the commercial element to the north of the site is omitted.
- Concerns relating to overdevelopment, excessive height, scale, massing and encroachment on open space zoning are cited. External treatments and building designs are deemed to be acceptable.
- Public open space provision on site exceeds the 15% requirement of the Development Plan.
- The proposed development has the potential to impact on the residential amenity of the property to the east of the site.
- Height of proposal is excessive and out of character with established setting of Ratoath. Building height should be reduced to a maximum of 4 storeys.
- Reference is made to the Natura Impact Statement submitted in conjunction with the application. The planning authority consider that the proposed development by itself or in combination with other permitted developments and plans and projects would not be likely to have a significant effect on a European Site.

A request for further information was recommended in relation to the following:

- Overdevelopment/Encroachment onto FI Open Space Zoning.
- Justification for proposed residential density.

- Revised Drawings illustrating a maximum height of 4 storeys for the residential block.
- Details of impact of proposal on residential dwelling to the east.
- Revised proposals for the proposed communal amenity spaces to maximise solar gain.
- Retail Impact Assessment.
- Proposals to address encroachment on existing wayleave associated with the existing sewer.
- Development Management Flood Risk Justification Test.
- Archaeological Assessment Report.
- Response to issues raised within the Third-Party submissions on the application.

#### Planners Report – Further Information (15/06/2020)

- Proposed development materially contravenes the F1 Open Space zoning objective for the lands and should be refused on this basis. Applicant has not provided a reasonable or justifiable reason as to how the development could be permitted on the site in accordance with local planning policy.
- The proposal, in an amended format, could be considered acceptable under the Draft County Development Plan once it is adopted.
- Ratoath is identified as a small town within the settlement hierarchy of the existing Meath County Development Plan 2013-2019 and a self-sustaining town within the Draft Meath County Development Plan 2020-2026 wherein the recommended density is 35 units per hectare.
- Proposed density of 53 units per ha has not been justified in this instance and there is a significant shortfall in car parking. Ratoath is not served by a high quality public transport.
- Impact on residential dwelling to the east of the site sufficiently addressed.
- Submitted Shadow Study and Analysis of Public Open Space addresses concerns relating to the quality of open space.

- By reference to the Retail Impact Statement the scale of retail on the B1 zoned portion of the site is deemed acceptable.
- Reference is made to ABP Ref. 305323-19 for an infill development in Ratoath wherein reasons for refusal included shortfall in car parking.
- Notwithstanding the recommendations of the Conservation Officer the existing buildings on site are not listed as Protected Structures within the County Development Plan or identified within the NIAH and there is no objection to the principle of their demolition. The principle of the demolition of the buildings was furthermore accepted under PA Ref: DA70405 & DA 802129 (ABP PL17.232549).
- Recommends a refusal of permission on grounds of shortfall of car parking, flood risk concerns and material contravention of zoning objective.

### 3.2.2. Other Technical Reports

Environmental Services: Report dated 21/05/2019 – Recommends a request for further information. Details that the site is partially located within Flood Risk Zone A and Flood Zone B. The proposed residential development is classified as “highly vulnerable” and a Justification Test required in support of proposal. Report dated 4/06/2020 refusal recommended on flood risk grounds. Reference is made to lack of a Justification Test and inconsistencies in submitted flood risk assessment.

Transportation Department: Report dated (May 2019) shortfall in car parking spaces, minimum dimensions for parking spaces, swept path analysis. Report dated 30/04/2020 – refusal recommended due to shortfall in car parking spaces.

Alternatively, a condition is recommended to either reduce the size of the development or increase parking provision. In the instance of a grant of permission it is recommended that the boundary treatment along the public road including the footpath and cycle path is agreed with the Transportation Section.

Water Services Report: (13<sup>th</sup> of May 2019) requests further information relating to details of surface water discharge and OPW consent for retaining wall structure. Report dated 23/03/2020 recommends grant of permission subject to conditions.

Conservation Officer: Report dated 23/03/2020. Objection to proposed demolition of existing 3 bay 2 storey residence dating to 1880's. Refers to Policy CH POL 20 of



Meath County Development Plan which encourages maintenance and re-use of existing vernacular buildings within Meath. No objection to sensitive redesign subject to retention of existing buildings of character and to address connection between the river, meadow bank and the town centre.

### 3.3. Prescribed Bodies

Irish Water - Correspondence dated 15<sup>th</sup> of May 2019 – requests further information in relation to clearance from existing sewer which traverses the site. Report dated 19<sup>th</sup> of March 2020 recommends grant of permission subject to conditions.

Inland Fisheries Ireland – Correspondence dated 26/04/2019 outlines that Broadmeadow River is an important salmonoid system with Brown Trout and Salmon in lower reaches. River is classified by EPA as being in poor condition. Risk of pollution of river associated with the proposal from poor on site construction practices. All works should be completed in line with a Construction Management Plan which ensures good construction practices. The submission furthermore outlines that:

- An undisturbed buffer zone of at least 10m between the development area and riverbank should be adhered to. Riparian vegetation should be retained in as natural a state as possible and any cleared areas should be replanted with native species to mitigate negative ecological impacts.
- An invasive species and biosecurity plan should be included to treat and manage identified evasive species on site.
- It is essential that local infrastructure capacity is available to cope with increased surface and foul water generated by the proposal. Reference is made to issues of capacity in the area.

Health Service Executive – Correspondence dated 2<sup>nd</sup> of May 2019. No objection to proposal subject to condition including submission of a Construction Management Plan, rodent infestation survey and noise and dust survey for construction phase of the development.

Department of Culture, Heritage and Gaeltacht – Correspondence dated 19<sup>th</sup> of March 2020. No objection subject to condition relating to archaeological monitoring.

### 3.4. Third Party Observations

Observations on the application were received within both the initial 5-week consultation stage and at further information stage of the application from the following:

- Mrs Frances Maher
- Julie Mulvaney
- Mruigtuaithé Residents Association
- Geraldine Smith
- Cllr. Gillian Toole
- Leo Cummins
- Angela Reynolds
- Caroline Sweetman
- Siobhan Sevestre
- Rhona Thornton

The following provides a summary of the issues raised:

- Access and Transportation Concerns: Insufficient car parking, insufficient public transport, lack of cycling culture in Ratoath; premature pending delivery of outer relief road; safety of entrance, traffic congestion
- Concerns relating to Height, Scale, Massing and Density of proposal; Proposal represents an over development of the site, previous refusal on the site;
- Development is out of character with the area and designation of Ratoath as a small town;
- Impact on Residential amenity: visual impact, noise impact, overlooking, overshadowing; anti-social behaviour, loss of privacy due to number of apartment balconies proposed, structural impact on adjoining property, boundary treatments;

- Impact on Open Space: Encroachment and loss of Open Space; Impact on River, Conflict with zoning objective and Objective SOC OBJ 12;
- Insufficient Water and Sewerage Infrastructure;
- Flood Risk;
- Insufficient justification for apartments and retail units. Commercial Vacancy within Ratoath; loss of boxing club;
- Insufficient information relating to the management of proposal; hospitality licence, fire safety

## 4.0 Planning History

- 4.1. PA Ref DA/802129, ABP Ref. PL17.232549: Planning permission refused by An Bord Pleanála in July 2009 for a mixed-use development comprising of 4 no. blocks to include 24 no. residential units and 6,150 sqm of commercial use in accordance with the following reasons and considerations:

*“The proposed development by reason of its strong urban form, excessive height, horizontal emphasis, scale and massing is such that it would detract from the amenity, character and integrity of Ratoath Village and would set an undesirable precedent for further similar developments in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area”.*

- 4.2. PA Ref DA/70405: Planning permission refused by Meath County Council in August 2007 for a mixed-use development on site comprising 5 no. blocks up to 5 storeys to include 31 no. residential units, a retail store and 5 no. commercial units. The reasons for refusal related to Strategic Settlement Objective (SO1) and prematurity pending adoption of an order of priority for residentially zoned lands, quantum of retail floorspace in conflict with C1 zoning objective, poor design and building form and lack of integration with Open Space zoned lands, and deficiency in public water and sewerage facilities.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The appeal site is located within the administrative boundary of Meath County Council. The Ratoath Local Area Plan 2009-2015 is the relevant LAP for the area.

### 5.2. Meath County Development Plan 2013-2019

#### Settlement Hierarchy

5.2.1. Ratoath is designated as a “small town” under the settlement strategy as set out within Table 2.1 of the Meath County Development Plan. Table 2.5 identifies a housing allocation of 239 units for the town for the period of 2013-2019.

5.2.2. Objective SS OBJ 1 seeks – *“To secure the sustainable development of County Meath in accordance with the settlement strategy set out in Table 3.2. In doing so development will be primarily directed towards the identified Large Growth Towns. In towns and villages, development will facilitate in the first instance, the consolidation of settlements and the integration of land use and transport. The expansion of urban areas where it is necessary to facilitate growth as set out in the Development Plan shall promote mixed use development and be guided by the sequential approach in order to create a compact urban form and facilitate sustainable modes of transport”.*

5.2.3. The specific objectives in relation to small towns include:

- *SSOBJ12 – To ensure that small towns develop to cater for locally generated development and that growth occurs in tandem with local services infrastructure and demand.*
- *SSOBJ13 – To ensure that small towns grow in a manner that is balanced, self-sustaining and supports compact urban form and the integration of land use and transport.*
- *SS OBJ 14 To ensure that in Small Towns, no proposal for residential development should increase the existing housing stock (including permitted units) of the town by more than 15% within the lifetime of the Development Plan.*

## Other Relevant Policies

- *WS POL 29 To have regard to the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan.*

## Development Management

5.2.4. Chapter 11 sets out Development Management Standards and Guidelines. The following guidance is of relevance:

### *Residential Density*

5.2.5. Section 11.2.1 of the Development Plan provides the following guidance in respect of residential density in small towns:

*“In respect of small towns, sites which are located on well established, existing or proposed public transport routes or nodes with additional capacity, residential densities in excess of 35 net residential units per hectare should be utilised. In all other instances maximum densities of 35 net residential units per hectare shall be applicable, and in general, densities and house types shall be compatible with the established densities and housing character in the area”.*

5.2.6. The Development Plan furthermore outlines that the appropriate residential density in any particular location will be determined by the following criteria:

- i. The extent to which the design and layout follows a coherent design brief resulting in a high quality residential environment;*
- ii. Compliance with qualitative and quantitative criteria set out in the subsequent sections;*
- iii. The extent to which the site may, due to its size, scale and location, propose its own density and character, having regard to the need to protect the established character and amenities of existing adjoining residential areas;*
- iv. Proximity to points of access to the public transport network;*
- v. Existing topographical, landscape or other features on the site, and;*

- vi. *The capacity of the infrastructure, including social and community facilities, to absorb the demands created by the development.*

5.2.7. The Development Plan furthermore outlines that *“the choice as to the level of residential density appropriate to a given area cannot therefore be considered in simple arithmetic terms for all development sites as a single numerical value. Rather, the identification of a given density and the question of its appropriateness should be determined by spatial planning and architectural design criteria, determined by the context of a given site and the relationship to the overall proper planning and sustainable development of that centre”*.

#### *Car Parking*

5.2.8. Section 11.2.2.7 of the Development Plan relates to car parking provision and outlines that car parking should be provided in accordance with the standards set out in section 11.9.

5.2.9. The following parking standards are set out in Section 11.9 of the Plan.

- Flats/Apartments: 1.25 per 1 and 2 bed, 2 per 3 & 4 bed. In all cases 1 visitor space per 4 apartments
- Retail (Non-food): 1 per 20sq.m. gfa
- Restaurant: 1 per 5 sq.m. dining area
- Surgeries: 2 per consultation room

#### *Public Open Space*

5.2.10. Public open space shall be provided at a minimum rate of 15% of the total site area.

#### Mapped Objectives

- Map 9.4.24 of the County Development Plan illustrates a public right of way along the southern banks of the Broadmeadow River.
- Map 9.5.1 of the Plan identifies protected Views & Prospects in Co. Meath. None of the identified views relate to Ratoath.
- Map 6.1 identified Key Transportation Corridors, Nodes & Networks in Co. Meath. Ratoath is identified on the Strategic Bus Transport Corridor.

### 5.3. Ratoath Local Area Plan 2009-2015

#### Zoning Objective

5.3.1. The appeal site is subject to the following zoning objectives within the Local Area Plan:

- The northern portion of the site is zoned for Objective B1 Commercial/ Town or Village Centre purposes. This zoning objective seeks *“to protect, provide for and/or improve town and village centre facilities and uses”*.
- The southern portion of the appeal site is zoned Objective FI for Open Space purposes. This zoning objective seeks *“to provide for and improve open spaces for active and passive recreational amenities”*.

5.3.2. The guidance set out within the LAP for B1 zoned lands outlines *that “it is intended to accommodate the majority of new commercial and retail uses within lands identified for B1 land use zoning objective”*. The uses Health Centre, Healthcare provider, Restaurant /Café, Residential, Supermarket / Superstore and Shop are listed as permitted uses on lands zoned for B1 purposes.

5.3.3. The following uses are listed as permissible and open for consideration on lands zoned for open space purposes.

#### *Permitted Uses*

- Car Park for Recreational Purposes, Craft Centre / Craft Shop, Community Facility / Centre, Cultural Facility, Cycleways / Greenways / Trail Development, Leisure / Recreation / Sports Facilities, Playing Pitches, Water Services / Public Services.

#### *Open for Consideration Uses*

- Allotments, Bring Banks, Childcare Facility, Place of Public Worship.

5.3.4. Residential use is not listed as a use which is either permitted or open for consideration on lands zoned for open space purposes. The LAP outlines that *“uses other than the primary use for which an area is zoned may be permitted provided they are not in conflict with the primary use zoning objective”*.

5.3.5. Section 3.4.1 of the LAP relates to permissible and non-permissible uses. The following guidance is set out: *“Uses not listed under the permissible or open for*

*consideration categories are deemed not to be permissible in principle and such uses will be considered on their individual merits. The expansion of established and approved uses not conforming to use zone objectives will be considered on their merits”.*

#### Other Mapped Objectives

5.3.6. The zoning map highlights that the site is located within an Area of Archaeological Interest.

5.3.7. The site is located within an area with an interface with Flood Risk Zones A and B. The following policies are of note.

- FR POL 1 To manage flood risk and development in Ratoath in line with policies WS 29 – WS 36 inclusive in Volume I of this County Development Plan.
- FR POL 5 Any amenity walkways proposed along the Broadmeadow River shall be subject to the undertaking of an appropriately detailed Flood Risk Assessment which will inform the necessary planning consent and which should not generally increase existing ground levels within these flood risk zones.

5.3.8. A pedestrian walkway objective is identified along the southern boundary of the site adjacent to the Broadmeadow River. Objective SOC OBJ 18 of the LAP seeks *“To develop a system of linear parks and waterfront amenity areas with walkways and cycleways, subject to the availability of resources, along the banks of the River Broadmeadow”.*

#### Retail and Commercial Development

5.3.9. Section 4.5 of the LAP relates to Retail and Commercial Development in Ratoath. This outlines that Ratoath is designated as a Level 4 Small Town Centre in the County Retail Hierarchy.

5.3.10. RET DEV POL 4 seeks to *“support proposals for new retail and other mixed-use development in the town where the proposal:*

- *Is compliant with the sequential approach to retailing;*
- *Is well located, convenient, attractive with safe pedestrian linkages;*



- *Provides or is in close proximity to adequate parking (including cycle parking);*
- *Provides adequate facilities for the recycling of waste packaging generated by the proposal, including a bring centre where required.*
- *Has negligible impact on existing urban residents.*
- *Has due regard to the designation that the town holds”.*

5.3.11. Section 3.5 of the LAP relates to housing development within Ratoath. This outlines that in accordance with the policy direction prescribed in the Meath County Development Plan 2013-2019, it is imperative that the traditional character of Ratoath is respected and maintained. Ratoath is not considered suitable for *“high density apartment developments which would be out of character with the existing built form”*.

5.3.12. The following objectives for residential development are set out within the LAP:

- RES POL 3 To achieve a mix of housing types and sizes in the consideration of individual planning applications for residential development.
- RES OBJ 3 To achieve a better and more appropriate mixes of dwelling size, type tenure and accessibility in all new residential development.

5.3.13. The following policies and objectives for Open Space are set out within the LAP:

- SOC POL 15 To ensure that high quality open space is provided to serve the active and passive recreational needs of the population of Ratoath.
- SOC OBJ 15 To investigate the provision of riverside and pedestrian walkways in Ratoath.
- SOC OBJ 17 To provide and encourage further improvements along the banks of the River Broadmeadow.
- SOC OBJ 18 To develop a system of linear parks and waterfront amenity areas with walkways and cycleways, subject to the availability of resources, along the banks of the River Broadmeadow.
- DER POL 2 To identify and secure the redevelopment of obsolete areas, including areas of backland, derelict sites and incidental open space.

5.3.14. The development management standards and guidelines applicable to the LAP area are those set out in the Meath County Development Plan 2013-2019.

#### 5.4. **National Planning Framework (DHPLG 2019)**

5.4.1. The National Planning Framework (NPF) recommends compact and sustainable towns/ cities and encourages brownfield development and densification of urban sites. Relevant policies from the NPF include the following:

- NPO 11 – In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

5.4.2. Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development. Objective 33 is to prioritise the provision of new homes that can support sustainable development.

#### 5.5. **The Eastern and Midland Regional and Spatial Economic Strategy 2019-2031**

5.5.1. The RSES is a strategic plan which identifies regional assets, opportunities and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. The settlement hierarchy for the region is set out within Table 4.2. At the top of the hierarchy is Dublin City and Suburbs, followed by Regional Growth Centres, Key Towns, Self-Sustaining Growth Towns, Self-Sustaining Towns, Towns and Villages and Rural areas.

5.5.2. Within Meath, Drogheda Environs is identified as a Regional Growth Centre and Navan and Maynooth are designated as Key Towns. The RSES specifically identifies Ratoath as a self-sustaining town within the region.

5.5.3. Self-Sustaining Towns are described as '*towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and or services and which require targeted 'catch-up' investment to become more self-sustaining*'. It is acknowledged in the RSES that these towns require contained

growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery.

- 5.5.4. The RSES identifies Ratoath as one of the settlements within the Region which has undergone rapid commuter-focused residential expansion over the recent decade, without equivalent increases in jobs (i.e. settlements characterised by a low ratio of jobs to resident workforce) and services. It is stated that *“Population growth in these towns shall be at a rate that seeks to achieve a balancing effect and shall be focused on consolidation and inclusion of policies in relation to improvements in services and employment provision, to be set out in the core strategies of county development plans”*.
- 5.5.5. The RSES also recognises the potential for settlements, such as Ashbourne and Ratoath have to strengthen their employment base and develop as important centres of employment due to their strategic location, connectivity with surrounding settlements, and the availability of a skilled workforce.

## 5.6. Section 28 Ministerial Guidelines

- 5.6.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018
  - Urban Development and Building Heights Guidelines, 2018
  - Urban Design Manual, A Best Practice, 2009
  - Design Manual for Urban Roads and Streets, 2013
  - The Planning System and Flood Risk Management Guidelines, 2008

## 5.7. Natural Heritage Designations

The appeal site is not located in or in the immediate vicinity of any sites with a natural heritage designation.

## 5.8. EIA Screening

Having regard to the limited nature and scale of the proposed development and 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been submitted in respect of the decision of Meath County Council to refuse permission for the proposal. The following provides a summary of the grounds of appeal. Further elaboration on each of the grounds of appeal is set out within the assessment section of this report.

- Proposed car parking provision is appropriate considering the site's central location and national policy objectives to reduce car dependency.
- Proposed buildings are located on Flood Zone C lands. The development is not at risk at flooding and a justification test is not required as no vulnerable land uses are proposed within Flood Zone A or B.
- Refers to the FI Open Space zoning objective on part of the lands. Development is considered appropriate having regard to Section 3.4.1. of the Ratoath LAP. The development will not conflict with the delivery of the zoning objective for such lands as it will deliver a high-quality amenity offer.
- Development is not a material contravention of the Meath County Development Plan or the Ratoath Local Area Plan.

## 6.2. Planning Authority Response

Meath County Council provided the following response to the grounds of appeal.

- Requests the Board to uphold the decision to refuse permission.
- The proposal in its current form does not comply with car parking standards set out within the Meath County Development Plan.
- The proposal should have been accompanied by a Justification Test as required by the Flood Risk Management Guidelines.
- The development would materially contravene the FI zoning objective as set out within the Ratoath Local Area Plan 2009-2015.

## 6.3. Observations

6.3.1. 3 no. observations on the appeal were received from the following:

- Mruigtuaithé Residents Association
- Gillian Toole, Councillor Ratoath Municipal District
- Caroline Sweetman - Clonkeen Residents Association

6.3.2. The following provides a summary of relevant points raised within the observations.

### Design and Height

- Concerns relating to massing, bulk, design, density and layout of proposal. Concerns relating to the impact of the oversized development on the quality of life for local residents.
- Planning permission was previously refused on the site for a 4-storey development on grounds including excessive height. The development will have a significant impact on the skyline and have a negative impact on adjoining residential areas.

### Density

- The proposal is inconsistent with the designation of Ratoath as a “small town” within the County Development Plan.

- Residential density at 53 units per ha is excessive and not in accordance with Development Plan Guidance (35 units per ha) or section 3.5 of the Ratoath LAP.

#### Architectural Heritage

- No effort to retain any element of the historic buildings on site. Developer has disregarded the intrinsic value and heritage of the buildings.

#### Impact on Residential Amenity

- Parking overspill to adjoining residential areas
- Impact on residential amenity including safety, privacy and noise pollution associated with the restaurant.
- Concerns relating to proposed 180 seat licensed restaurant on grounds of noise and disturbance.
- Visual impact of height of proposal on residential area to the north. Privacy of residential estate to the north will be impacted due to overlooking from the balconies.

#### Access and Transportation

- Traffic Impact- cycle lanes will have minimal impact on traffic.
- Concerns relating to the siting of proposed entrances to the north and west due to poor sightlines to the north and conflicts with pedestrians. Concerns relating to conflict between entrance to the west with Tesco entrance.
- Development is premature pending an Outer Relief Road linking the R125 to the R155.
- Inadequate and insufficient public transport system in the town.
- Insufficient car parking for apartments and commercial elements of the scheme.

#### Insufficient Justification/ Details

- Insufficient justification for retail units in light of vacancy in village centre
- There is a demand for retirement/ step down homes in the area.

- No demand for proposed health centre facility – Site allocated for a HSE Health Centre in the town at a more suitable location with more sufficient space for car parking.
- Management of Development.

#### Amenity and Open Space

- Proposal diminishes the amenity in the village by interrupting the F1 designated river walk.
- Encroachment on open space is strategic and effectively cuts the river walkway in two. The River walk has been a central objective for Ratoath and Tidy Towns Committee has done significant work to realise this objective.
- Insufficient open space for residents.
- The proposed plaza is a commercial space not a recreational space and public access may not be facilitated.

#### Prematurity

- Housing is premature pending investment in water network, road network and public transport.
- Capacity of water sewerage – overflow of sewerage on footpath during periods of heavy rainfall. Concerns relating to shortages in water supply.

#### Environmental Impacts

- Impact on wildlife and fauna of the River.
- Impact of basement car park on the River in terms of construction and material leaching.
- Flood risk

### **6.4. Further Responses**

None.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Material Contravention of Open Space Zoning Objective
- Access and Transportation
- Flood Risk
- Density
- Design and Layout, Height
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

### 7.2. Material Contravention of Open Space Zoning Objective

7.2.1. The appeal site is located within the development boundary of Ratoath and subject to the following zoning objectives within the Ratoath Local Area Plan:

- The northern portion of the site is zoned for Objective B1 Commercial/ Town or Village Centre purposes.
- The southern portion of the appeal site is zoned Objective FI for Open Space purposes.

7.2.2. The proposal includes the provision of residential development, car parking and emergency access road on lands zoned for open space purposes. The open space zoning objective seeks *“to provide for and improve open spaces for active and passive recreational amenities”*. The extent of residential development which is proposed on the open space zoned portion of the site is identified within the application documentation as 1,856.9 sq.m.

7.2.3. Residential use is not listed as a use which is either permitted or open for consideration on lands zoned for open space purposes. Section 3.4.1 of the Ratoath



Local Area Plan outlines that: *“Uses not listed under the permissible or open for consideration categories are deemed not to be permissible in principle and such uses will be considered on their individual merits”*.

- 7.2.4. The planning authority’s third reason for refusal states that the proposal as presented, is partially located on lands zoned FI – Open Space in the Ratoath Local Area Plan 2009-2015 and as such is considered to materially contravene the relevant zoning objective.
- 7.2.5. In responding to the grounds of appeal, the applicant has made a case that the proposed development does not represent a material contravention of the Ratoath Local Area Plan and will not conflict with the delivery of the zoning objective on Open Space zoned lands. Reference is made to the guidance set out within Section 3.4.1 of the LAP which states *that “Uses other than the primary use for which an area is zoned may be permitted provided they are not in conflict with the primary use zoning objective”*. In this regard a case is made that each application can be assessed on its individual merits on a case by case basis.
- 7.2.6. A case is made within the appeal that the proposal will not inhibit the attainment of the FI Open Space zoning objective as 26.8% of the site will be dedicated as public open space. The application documentation outlines that while 1,856.9 sq.m. of residential development is proposed on open space zoned lands, 767.5 sq.m. of open space is proposed on the B1 zoned portion of the site. On this basis it is stated that the net area not left as open space is 1,089.4 sq.m. which is less than 11% of the total site area.
- 7.2.7. At present the site is privately owned, inaccessible and fails to deliver passive or active recreational space. A case is made within the appeal that the proposed development will significantly enhance the open space offering of Ratoath by making current inaccessible and privately owned open space available to the public. The open space zoning objectives will be secured by the proposal through the delivery of 4 no. high quality landscaped open spaces within the scheme including the riverside amenity, the plaza and 2 no. courtyards which will be available to residents of the scheme.
- 7.2.8. It is stated that the proposed riverside amenity will benefit the entire town of Ratoath and be a significant community gain and will secure the delivery of Objectives SOC

OBJ 12, SOC OBJ 15, SOC OBJ 17 and SOC OBJ 18 of the Ratoath Local Area Plan. Collectively these objectives seek to enhance riverside walks and active recreation along the Broadmeadow River.

- 7.2.9. In addition to the points made within the appeal the application documentation (Response to Request for Further Information Item 1 prepared by Future Analytics) cites precedent cases in Meath wherein development had been permitted on lands zoned for open space purposes and issues of material contravention did not arise ( including a residential development permitted at The Willows, Dunshaughlin PA Reg Ref: RA17/1416 and a mixed use development permitted at Dublin Road, Enfield PA Reg Ref TA17/1345).
- 7.2.10. On review of the grounds of appeal, the wording of Section 3.4.1 of the LAP together with the extent of residential and associated development which is proposed on open space zoned lands I consider the current proposal to be in conflict with the “open space” zoning objective. On this basis I consider the proposal to represent a material contravention of the LAP which seeks “to provide for and improve open spaces for active and passive recreational amenities”.
- 7.2.11. While the applicant has made a case that the loss of a portion of the open space zoning will in part be compensated within the overall site on the commercially zoned portion of the site I consider the siting of the existing F1 zoning objective particularly along its interface with the Broadmeadow River to be strategic as it forms part of a wider network of open space zoned lands within Ratoath which adjoin the River Broadmeadow. A case is made within the application documentation that the appeal site is of low ecological value. Notwithstanding this, I note reference to badger activity on site within the NIS and the submission on file from Inland Fisheries refers to the River as part of an important salmonoid system with Brown Trout and Salmon in its lower reaches.
- 7.2.12. The submission on the application by Inland Fisheries Ireland requests a 10m undisturbed buffer area for ecological purposes between the development area and the River which is not accommodated in the current layout. Having regard to the current open space zoning objective pertaining to the site I do not consider this requirement to be onerous.

- 7.2.13. I would also question the level to which the proposal delivers on Objectives SOC OBJ 12, SOC OBJ 15, SOC OBJ 17 and SOC OBJ 18 of the Ratoath Local Area Plan relating to the provision of Riverside walks along the river. The interface of the proposal with the river in its current format includes a pedestrian bridge over public open space which connects to an emergency access road.
- 7.2.14. On review of the precedent cases cited by the applicant I note that the development proposed under PA Reg Ref TA17/1345 for a mixed use development at Dublin Road, Enfield Co. Meath, while permitted by Meath County Council, was refused by An Bord Pleanála on appeal for reasons including material contravention of the open space zoning objective (ABP Ref 302567-18). The planner's report which accompanied the decision of Meath County Council to permit development under RA17/1416 at the Willows, Dunshaughlin outlined that while the proposal included residential development on open space zoned lands there was no net loss in open space areas within the overall site.
- 7.2.15. Having regard to the layout of the proposal and the extent of development which is proposed on the Open Space zoned portion of the site I agree with the conclusion of the planning authority that that the proposal would materially contravene the Open Space zoning objective pertaining to the site as set out within the Ratoath Local Area Plan 2009-2015.
- 7.2.16. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that:
- (i) the proposed development is of strategic or national importance,
  - (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
  - (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.17. Having regard to the characteristics of the proposed development, I consider Section 37 (2) (b) (iii) is relevant in this instance.

7.2.18. While the applicant has made a case that the proposal does not represent a material contravention of the Ratoath LAP the appeal and application documentation detail how the proposal responds to the changes in national and regional policy as well as evolving local policy including that set out within the Draft Meath County Development Plan 2020-2026 which seek to support compact growth by promotion/regeneration of underutilised brownfield sites within the existing footprint of settlements.

7.2.19. In this regard, I note that Ratoath is specifically identified as a town which has experienced significant commuter-based growth in the past decade and is specifically designated as Self-Sustaining Town within the RSES. The objectives for Ratoath as set out within the RSES is to support the consolidated growth of the population and expand the employment base of the town. Having regard to the location of the appeal site within the urban footprint of Ratoath I consider it an appropriate location to accommodate residential development as part of a wider mix of uses.

7.2.20. Section 5.3.1 of the appeal refers to the Draft Meath County Development Plan 2020-2026 which was published in December 2019. It is stated that the Draft Plan reflects the greater emphasis placed in the NPF and RSES on sustainable and resilient urban growth and the appeal refers to the revisions to the zoning objectives pertaining to the site in this regard.

7.2.21. Reference is made within the appeal to the revisions to the zoning objectives pertaining to the site as set out within the Draft CDP wherein a larger portion of the site is zoned for B1 commercial purposes and the FI zoning objective is refined to align with the River Broadmeadow more closely. I refer to attached presentation document which illustrates the revised zoning objectives as they relate to the site.

7.2.22. Figure 5.2 of the appeal includes an overlay of the proposed scheme on the revised zoning objectives set out within the Draft Plan. Table 5.3 of the appeal identifies that

84.5% of the proposal is located on lands zoned for B1 purposes with the remaining 15.5% located on lands zoned Objective F1 for open space purposes.

- 7.2.23. A case is made within the appeal that there would be a net gain in open space provision on the site through the delivery of the plaza and courtyards which are located on the B1 zoned portion of the site. On review of the proposed revisions to the zoning I note that the development footprint of the proposal, including residential development and the access road extends to the portion of the site which is zoned for open space purposes in proximity to the River Broadmeadow.
- 7.2.24. In considering the changing policy context and greater emphasis on consolidated growth as set out within the NPF and RSES, I do not consider the level of infringement proposed on open space zoned lands, adjacent to a River, to be supported through changes at National or Regional policy level. As earlier detailed, I do not consider the proposal in its current format to provide an appropriate interface with the river and have further concerns in relating to the design of the proposal as detailed in section 7.6 of this report.
- 7.2.25. On this basis I do not consider that the proposal can be considered in line with the criteria set out within Section 37(2) (b) of the Planning and Development Act as amended.
- 7.2.26. Having regard to the above reasons and considerations, while I consider that the appeal site is an appropriate and strategic location to support the growth of Ratoath, the development as currently proposed, which includes a significant proportion of residential development, car parking and road infrastructure on open space zoned lands adjacent to a River, materially contravenes the F1 zoning objective pertaining to the site as set out within the Ratoath Local Area Plan. I recommend that planning permission be refused for the proposal on this basis in accordance with the decision of the planning authority.

### **7.3. Access and Transportation**

- 7.3.1. A range of access and transportation related issues are raised within the first party appeal and the observations on the appeal. Meath County Council's decision to refuse permission for the proposal raises concerns in relation to the shortfall in car parking to serve the development. Concerns relating to insufficient car parking and

overspill of parking into adjoining residential areas are raised within the observations on the appeal.

- 7.3.2. Other transportation related concerns raised within the observations on the appeal include insufficient public transport to support the density of the proposal, safety concerns associated with the siting of the vehicular access points, prematurity pending the delivery of a Relief Road, traffic impact and cycle lane requirements. I will consider each of the points raised in turn as follows.

#### Car Parking

- 7.3.3. The planning authority's first reason for refusal outlines that the proposed development due to the shortfall in car parking spaces would materially contravene the car parking standards set out within Table 11.9 of the Meath County Development Plan 2013-2019 and Objective ECON DEV OBJ 6 of the Ratoath Local Area Plan which seeks: *"to consolidate the centre of Ratoath as the focal point of the town for cultural, social and retail facilities and to encourage the provision of new retail uses subject to adequate access, car parking and environmental improvements in the town centre"*. Concerns in relation to the shortfall in parking provision are also identified within the observations on the appeal.
- 7.3.4. The planner's report, which informs the decision of Meath County Council to refuse permission for the proposed development, includes cross reference to the recommendations of the Transportation Department's report which identifies a significant shortfall of parking spaces to serve the proposal. The report from the Transportation Department refers to a requirement to either reduce the scale of the proposal or increase the level of parking.
- 7.3.5. The planner's report furthermore includes reference to An Bord Pleanála decision ABP Ref PL17.305323 wherein permission was refused by the Board for an infill development within Ratoath on grounds including shortfall in car parking.
- 7.3.6. The proposed development, as amended in response to the planning authority's request for further information, includes the provision of 110 no. car parking spaces.
- 7.3.7. The first party appeal sets out a rationale for the proposed level of car parking and makes the case that the proposal would not represent a material contravention of either the parking standards set out within Section 11.9 of the Meath County

Development Plan or ECON DEV OBJ 6 of the Ratoath Local Area Plan. The following provides a summary of the grounds of appeal:

- Proposed parking is sufficient to serve the development
- Strict application of parking standards set out within Section 11.9 of the Meath County Development Plan is incorrect as these have been superseded by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities which advocate a reduced overall parking standard. Technically in this regard, the development cannot be considered to be a material contravention
- The site would be classified as an “Intermediate Urban Location” as set out within the Sustainable Urban Housing Guidelines wherein a reduced overall car parking standard would apply.
- For non- residential development parking standards set out in Section 11.9 are “maxima” standards. Therefore, parking provision cannot be deemed as a material contravention as they do not exceed the standards.
- Proximity of site to public transport will reduce dependence on car usage and ownership and promote sustainable modes of transport.
- Proposed mix of uses will facilitate daytime/night-time shared parking practices.
- Contradiction in planning policies and objectives. National planning policy seeks to promote increase land use intensities, residential densities and critical mass in central areas, reduce dependence on private car and promote and facilitate public transport, cycling and walking. Such objectives are reflected in policies and objectives of Ratoath LAP (SS POL 2, SS OBJ 1, ECON DEV OBJ 4, RET DEV POL 1, RET DEV POL 2, DER POL 2, ECON DEV OBJ 6, RET DEV OBJ 1, INF POL 3,4,9, 12,14 16, INF OBJ 9,14, 16).
- The proposal does not represent a material contravention of ECON DEV OBJ 6 of the Ratoath Local Area Plan. The proposal would deliver a high-quality mixed-use development within an existing derelict underutilised brownfield town centre site within Ratoath.

- Reference is made to the decision issued by An Bord Pleanála under ref PL17.304323 as cited in planner's report which informs decision of Meath County Council to refuse permission for the proposal. It is stated that materially different circumstances apply as the development refused included non-provision of car parking to serve the proposed infill development other than use of on street parking which is in use as a loading bay.
- Parking provision is considered appropriate having regard to the central location of the site, proximity to walking and cycling infrastructure and public transport and the need to transition towards more sustainable modes of transport.

7.3.8. In considering the issue of material contravention I have had regard to the guidance relating to parking standards as set out within the Meath County Development Plan. At the outset, I note that car parking standards are set out within Section 11.9 of the County Development Plan, there is no Table 11.9 in the CDP. I consider the reference to Table 11.9 within the reason for refusal to be an error.

7.3.9. The table is entitled Car Parking Standards and the title does not include specific reference to whether such parking standards are maximums or minimums. The following standards are of relevance:

- Flats/Apartments: 1.25 per 1 and 2 bed, 2 per 3 & 4 bed. In all cases 1 visitor space per 4 apartments
- Retail (Non-food): 1 per 20sq.m. gfa
- Restaurant: 1 per 5 sq.m. dining area
- Surgeries: 2 per consultation room

7.3.10. On application of the above standards to each element of the proposal a total of 222 no. car parking spaces would be required to serve the proposal as follows:

- A total of 89 no. car parking spaces would be required to serve the residential element of the scheme (75 for residents and 14 for visitors).
- A maximum of 133 no. spaces for the commercial elements of the scheme.



7.3.11. The proposed development includes the provision of 110 no. car parking spaces. The proposed allocation of parking is set out within the application documentation as follows:

- 57 no. car parking spaces to serve the residential component of the development at a rate of 1 per unit. 3 no. disabled spaces are also proposed which will be reserved for any residents with a disability.
- 50 non-residential, commercial car parking spaces – The following allocation of spaces is identified: 17 to serve non-food retail, 21 for restaurant use, 9 for Healthcare facility. The 9-no. healthcare facility parking spaces would be designated for this use but the remaining commercial spaces will not be dedicated for any particular use.

7.3.12. The Residential Design Criteria for Apartment Developments set out within Section 11.2.2.7 within the CDP outlines that car parking should be provided in accordance with the standards set out in section 11.9. However, I also have regard to the following footnotes attached to the table which are of relevance in interpreting the standards:

- *Footnote 2 - The above car parking standards shall be applied at the discretion of Meath County Council in the County's rural towns and villages having regard to the availability and adequacy of on street parking, existing or proposed off street parking to serve the development and the status of the town/village within the settlement structure of Meath.*
- *Footnote 3- standards set out for non-residential uses are "maxima".*

7.3.13. Having regard to the guidance set out within the Development Plan in relation to the car parking standards set out in Section 11.9 which outlines that (1) non-residential parking standards are maxima and (2) the planning authority has discretion in the application of parking standards within rural towns and villages, I do not consider that deviation from the parking standards detailed in Section 11.9 of the Meath County Development Plan parking could be classified as a material contravention.

7.3.14. The guidance in the Development Plan allows deviations in the application of parking standards on a case by case basis having regard to local circumstances. In this regard, it is in my view, that deviation from the standards would not justify the use of

the term “materially contravene” in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

- 7.3.15. In the instance that the Board considers the issue of material contravention to arise I refer to the central location of the site and guidance set out within the Apartment Design Guidelines which identifies the requirement for reduced parking standards in town centre locations. I consider the criteria set out under Section 37 (2) (b) (iii) of the Planning and Development Act applies in this instance.
- 7.3.16. As a separate consideration to the issue of material contravention of car parking standards, the question arises as to whether the quantum of parking proposed is sufficient to cater for the parking requirements of the proposal. The planning authority’s reason for refusal raises concern in relation to insufficient parking provision. Concerns relating to insufficient parking within the vicinity and potential overspill of parking associated with the proposal to adjoining residential areas are furthermore raised within the observations on the appeal.
- 7.3.17. A case is made within the first party appeal that the proposed parking provision is sufficient to cater for the demands of the proposal on the basis of the central location of the site, cycle parking provision, public transport connections and dual usage of the commercial car park.
- 7.3.18. I note the guidance attached to Section 11.9 of the Development Plan wherein it is stated that deviations from parking standards can be considered having regard to the availability and adequacy of on street parking, existing or proposed off street parking to serve the development and the status of the town/village within the settlement structure of Meath.
- 7.3.19. On-site inspection I note that there is no on street parking within the immediate vicinity of the site to accommodate any potential parking overspill. There is limited parking provision associated with the mixed-use development which includes a Tesco Express Store at Riverwalk Court at the opposite side of the Fairyhouse Road. Having regard to the location of the site at a prominent junction of the Fairyhouse Road there I consider that there is no capacity for overspill onto the adjacent road network. In this regard I consider that the proposal should be self - sufficient in catering for its parking needs.

- 7.3.20. The proposed development includes 110 no. car parking spaces, with 60 allocated to the proposed residential use (at a rate of 1 car parking space per unit) and 50 spaces within the commercial car park. On an overall basis, the proposal includes a shortfall of c. 50% of the parking standards set out within the Section 11.9 of the Meath County Development Plan. The proposed commercial parking is provided at a rate of 38% of the Development Plan standards and residential parking is provided at a rate of 67%.
- 7.3.21. Parking for the residential element of the scheme is provided at a rate of 1 space per unit. I consider this provision to be sufficient on the basis of the central location of the site. The proposed development will be managed, and I consider that the allocation of parking can be addressed by means of a parking management plan in the event that permission is granted for the development.
- 7.3.22. The proposed development includes provision of 50 no. parking spaces for the commercial element of the scheme. In considering the proposed commercial parking it is important to have regard to the nature of the proposed uses and the location of the appeal site. The appeal site is located within easy walking distance of the traditional core retail area of Ratoath. The nature of existing development in the vicinity of the site is primarily residential and commercial. As an edge of centre, commercially zoned site, I consider the appeal site to constitute a natural extension to the retail core of Ratoath.
- 7.3.23. The proposal includes a mix of retail/retail service uses (pharmacy, estate agents and non-food retail store), healthcare and restaurant uses. Having regard to the different nature and associated peak hours of such uses I accept the case made by the applicant that there will be dual usage of the proposed commercial car parking spaces. I also note the limited scale and nature of the proposed retail unit which is defined as non-food retail. Such uses would not generate the level of traffic or parking requirements associated with a food retail unit. The FI response includes reference to the fact that the commercial car park will be actively managed by a Management Company and this will ensure more than adequate parking.
- 7.3.24. Having regard to the town centre location of the site and level of cycle parking proposed, I have no objection in principle to the proposed level of car parking to serve the commercial and residential elements of the scheme. I do not consider that

the level of parking proposed would represent a material contravention of Section 11.9 of the Meath County Development Plan 2013-2019 or Objective ECON DEV OBJ 6 of the Ratoath Local Area Plan.

#### Cycle route

- 7.3.25. The GDA Cycle Network Plan identifies a Primary/Secondary Cycle Route network within Ratoath as illustrated within Figure 2.6 of the TTA submitted in conjunction with the application. The network plan includes a Primary/ Secondary route in the along Fairyhouse Road adjacent to the vicinity of the site identified as RH2. Reference is made within the TTA to consultation between the applicant and Meath County Council in relation to the incorporation of the cycle route adjacent to the site boundary.
- 7.3.26. The proposed development incorporates a two-way 4m wide cycle lane along the western site boundary between the existing roundabout and the proposed site entrance which is proposed to tie-in to the wider cycle network planned for Ratoath.
- 7.3.27. Observations on the appeal outline that there is limited cycle culture within Ratoath and question the overall benefits of the piecemeal delivery of the cycle route. In responding to the points raised I note that a Part 8 prepared by Meath County Council in conjunction with the NTA for upgrades to the existing pedestrian and cycle network in Ratoath is currently on public display.
- 7.3.28. The Ratoath Pedestrian and Cycle Scheme seeks to provide a high-quality pedestrian and cyclist network within the town of Ratoath that will create safe and comfortable routes between a number of large residential areas and key attractors. While the scope of the Part 8 does not extend to include Fairyhouse Road and Meadowbank Hill the proposed cycle lane will connect to the overall pedestrian and cycle network identified within the Part 8.
- 7.3.29. I consider that the delivery of the cycle route along the site boundary which will tie-in to a larger cycle network within the town will provide a significant planning gain for Ratoath and facilitate sustainable transport modes within the town. The report prepared by the Transportation Department in Meath County Council in respect of the proposal outlines that the boundary treatment along the public road including the footpath and cycle path is agreed with the Transportation Section. I consider such a condition to be appropriate in the instance of a grant of permission.

7.3.30. The provision of 185 no. cycle parking spaces as part of the proposed would furthermore support sustainable travel modes within the town. On review of the application drawings I consider that further consideration should be given to the location of the 30 no. cycle parking spaces within the commercial car park which appear to have restricted access due to the siting of the motorcycle spaces.

#### Proposed Vehicular Entrances

7.3.31. Access to the development is proposed via 2 separate entrances from Fairyhouse Road to the north and west of the site. Observations on the appeal raise safety concerns in relation to the proposed vehicular entrances citing the proximity of the proposed western entrance to the existing entrance to Tesco and potential for vehicular and pedestrian conflict at the entrance to the north of the site.

7.3.32. The main access to the development is proposed from Fairyhouse Road to the west of the site. Fairyhouse Road runs in a straight alignment in the vicinity of the site. The proposed entrance is 6m wide, adequately set back from the roundabout to the north and I envisage no impediments to visibility from the access. In terms of the siting of the entrance I note that the principle of the entrance is established at this location and the entrance to the site is staggered from the exit to Tesco at the opposite side of the R155.

7.3.33. The proposed entrance to the north of the site operates as an access only and is within the 30kmph zone. The response to submissions on the application prepared by ILTP Consulting outlines that the access will be appropriately signed to signal that it is an access only route.

7.3.34. A 3m wide footpath is provided in the vicinity of the proposed entrance and I consider that appropriate dishing and paving treatment should be provided at the entrance to address any potential conflicts between pedestrians and vehicles in accordance with the requirements of DMURS. No safety concerns associated with the proposed access were raised by the Transportation Department in Meath County Council.

#### Outer Relief Road

7.3.35. A case is made within observations on the appeal that the proposal is premature pending the delivery of a Relief Road for Ratoath. The delivery of a Relief Road has

been a long-term objective of Meath County Council as evidenced from INF OBJ 7 of the LAP which seeks: *“to realign the junction of the R125 and the Inner Relief Road and provide access to the backlands”*. The link road will link the R125 to the east of the site to the R155 Fairyhouse Road to the south of the appeal site.

7.3.36. I note that the proposal is not reliant on the delivery of the Relief Road to provide access. The Traffic Impact Assessment submitted in conjunction with the application assesses the traffic impact of the proposal in light of the existing road network and traffic impact associated with the proposal is identified as minimal. The site is a centrally located site and the principle of access to the site from Fairyhouse Road is established. The redevelopment of the site will not preclude the delivery of the Relief Road.

#### Public Transport

7.3.37. Observations on the appeal outline that limited public transport is provided within Ratoath to support the proposed high-density development. Observations identify high levels of commuting via private car leading to unsustainable travel patterns within the town. The TTA identified 65% of work-related commuting from the town is via private car.

7.3.38. Public transport within Ratoath is provided by linkages to the bus network. The Traffic and Transport assessment details that the town is served by 4 main bus routes (103 Ratoath to City, 105 Drogheda to Blanchardstown via Ratoath, 109A Dublin Airport to Kells via Ratoath and Ashbourne Connect- Ratoath to IFSC). Figure 2.5 details that the frequency of the 103 and 105 services at every 20 and 30 minutes respectively during peak times. The town is also served by bus connections to NUI Maynooth and UCD. The application documentation furthermore outlines that Ratoath is located within driving distance to the existing train station at Pace.

7.3.39. While I acknowledge existing unsustainable commuting patterns within Ratoath as identified within the RSES I do not consider that existing patterns should preclude the development of centrally located sites.

7.3.40. The policies and objectives of national and local planning policy are unambiguous in their support of compact growth which will be achieved through the redevelopment of the appeal site. The central location of the site together with measures such as

provision of cycle parking and provision of a cycle lane will support sustainable travel patterns.

#### 7.4. Flood Risk

- 7.4.1. Meath County Council's second reason for refusal outlines that the proposed development would be contrary to Policy WS POL 29 of the Meath County Development Plan 2013-2019 and The Planning System and Flood Risk Management Guidelines for Planning Authorities on the basis of the partial location of the appeal site within Flood Zone A, the lack of a Justification Test and inconsistencies in the submitted Flood Risk Assessment. Concerns relating to flood risk associated with the proposal are also identified within the observations on the appeal.
- 7.4.2. Policy WS POL 29 of the Meath County Development Plan seeks *"to have regard to the "Planning System and Flood Risk Management – Guidelines for Planning Authorities" (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan"*.
- 7.4.3. The appeal site is identified within an area designated with an interface with Flood Risk zones A and B within the Ratoath Local Area Plan. The Broadmeadow River flows through the southern section of the site and is the primary source of potential flood risk to the site. Flood Risk Zones A and B are identified in the south western portion of the site within the OPW Fluvial Flood Extent Map dated September 2016 based on the FEM FRAMS model.
- 7.4.4. The issue of flood risk was raised by Meath County Council within the request for further information. In response to this a Flood Risk Assessment prepared by JBA Consulting was submitted. This outlines that a site-specific hydraulic model was built to represent the Broadmeadow River, define flood levels in the pre and post development conditions and confirm Flood Zones.
- 7.4.5. The report prepared by the Environment Department in Meath County Council in respect of the FI response referred to inaccuracies within the submitted FRA including inconsistencies in reference to level of the basement car park and inconsistent water level references presented in Table 4.2 and 4.3 which relate to pre development and post development scenarios. It is stated that the

inconsistencies in the FRA do not facilitate a proper flood risk analysis by the planning authority. Concerns are furthermore raised in respect of the lack of a Justification Test.

- 7.4.6. An updated Flood Risk Assessment prepared by JBA Consulting is submitted in conjunction with the first party appeal. The Flood Risk Assessment hydraulic model was re-run at 2m spatial resolution to improve the display of the flood events.
- 7.4.7. Section 5 of the report addresses the requirement for a Justification Test. This identifies that while Flood Zones A and B are located within the application site boundary to the south of the Broadmeadow River this area comprises of riverside amenity which is considered a “water compatible use”. It is stated that all aspects of the built development including residential (“highly vulnerable”), commercial uses (“less vulnerable”) and the proposed access road (“less vulnerable”) are located entirely within Flood Zone C lands. Drawing no. 0371-025 P1 JBA Flood Zones Layout illustrates an overlay of the proposed site layout on the Flood Zones.
- 7.4.8. On this basis the applicant has made a case that there is no requirement for a Justification Test in accordance with the guidance set out within Figure 4.2 of the Flood Risk Management Guidelines.
- 7.4.9. Having regard to the information submitted in conjunction with the appeal response, I concur with the applicant that on the basis of the site layout which includes water compatible uses on Flood Zones A and B and the built elements of the scheme on Flood Zone C there is no requirement for the submission of a Justification Test. I do not consider the proposal to be contrary to Policy WS POL 29 of the Meath County Development Plan or the guidance set out within the Flood Risk Management Guidelines in this regard.
- 7.4.10. The planning authority’s reason for refusal also refers to inconsistencies within the FRA submitted in response to the request for further information. Each of the points raised are addressed within the revised Flood Risk Assessment. The FRA concludes that the *“higher resolution flood risk mapping and planning layout provides further clarification that the justification test does not apply and there are no negative impacts on flood levels”*.
- 7.4.11. Mitigation Measures are identified in section 5.1 of the FRA including the following:



- The proposed ground floor residential apartment and car park FFL is set at 84.1m OD – providing a freeboard of 1.5m above the 1% AEP
- A detailed stormwater system has been designed to minimise pluvial flood risk generated by increase in hardstanding area
- Access to the development can be maintained during a flood event - Roads within the site boundary are within Flood Zone C and will not be impacted by either 1% or 0.1% AEP flood events
- The proposed FFL is sufficient to protect the development from potential inundation associated with potential blockage of the R155 culvert

7.4.12. I consider that the applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area. Appropriate mitigation measures have been incorporated within the development including appropriate floor levels.

7.4.13. I note that consultation was undertaken with the OPW during the process of the application and Drawing no. 007-Rev 4 prepared by MC Crane Consulting Engineers illustrates access arrangements. The correspondence on the appeal by the OPW raises no objection in principle to the proposed arrangements subject to no hard surfaces, paved paths or seating being erected within the 5m maintenance strip identified on the drawing.

7.4.14. Having regard to the above reasons and considerations I consider that the issue of flood risk as articulated in Meath County Council's reason for refusal has been sufficiently addressed within the appeal.

## 7.5. **Density**

7.5.1. The proposed development includes the provision of 57 no. residential units and yields a density of 53 units per hectare. A case is made within the observations on the appeal that the proposed density is excessive and is not in accordance with the designation of Ratoath as a small town within the Meath County Settlement hierarchy or the guidance set out within either the existing Ratoath LAP which states that: "*Ratoath is not considered suitable for high density apartment developments which would be out of character with the existing built form*". It is furthermore stated

that the town is not well served by public transport to support the density of development proposed.

- 7.5.2. Section 11.2.1 of the Meath County Development Plan outlines that residential densities in excess of 35 net residential units per ha should be utilised *“on well established, existing or proposed public transport routes”* in small towns within the County and in all other instances a maximum density of 35 net residential units per ha shall be applicable *“and in general, densities and house types shall be compatible with the established densities and housing character in the area”*.
- 7.5.3. A case is made in the application documentation that the guidance set out within the National Planning Framework, Sustainable Apartment Guidelines and the RSES supports compact growth and the consolidation of existing settlements. It is stated that the density of the proposal is appropriate having regard to the strategic location of the site within Ratoath.
- 7.5.4. In this regard I note that, Objectives 4, 13, 33 and 35 of the National Planning Framework, Section 4.7 of the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, SPPR1 and SPPR4 of the 2018 Urban Development and Building Heights Guidelines, 2018 all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 7.5.5. Having regard to National and Regional policy guidance I consider that, in principle, consideration could be given to a density of over 35 units per ha on an underutilised centrally located site subject to design, impact and residential amenity considerations.
- 7.5.6. However, I have concerns in relation the development as currently proposed. While a density of 53 units per ha is cited within the application documentation, the commercial and residential elements of the scheme are distinct elements and a density of over 100 units per ha is achieved in the southern portion of the site. As detailed in the following section of this report I consider that the development as proposed constitutes overdevelopment of the site.

## 7.6. Design, Layout and Height

- 7.6.1. Observations on the appeal raise concern in relation to the scale, layout, design and height of the proposal and consider the proposal to be out of character with the existing pattern of development within Ratoath.

### Design and Layout (New Issue)

- 7.6.2. A rationale for the layout and design of the proposal is set out within the architectural design statement submitted in conjunction with the application. This details how the proposal addresses existing site characteristics including the existing Broadmeadow River which traverses the site and site constraints including the right of way over the existing sewer. A case is made that a large proportion of the site will be reserved for open space due to the position of rights of way, sewer, watercourse and flood plain.
- 7.6.3. The development proposed is mixed use in nature, with the retail/commercial element located on the northern part of the site fronting onto Fairyhouse Road and an “E” shaped residential block located toward the southern end of the site. The buildings are designed around 3 separate amenity spaces including a public plaza, the siting of residential blocks around private amenity spaces and a public amenity space to the south.
- 7.6.4. The external finishes are a mixture of brick, plaster and zinc. I am satisfied the proposed materials would be satisfactory in the context of the visual amenities of the area and the amenities of adjoining properties.
- 7.6.5. The quantum of public open space proposed at 26% exceeds development plan requirements and private open space for each apartment exceeds the standards set out within the Apartment Guidelines and is provided in the format of balconies for each unit. Communal open space for the residents of the scheme comprises 2 no. courtyards between the apartment blocks at podium level with a combined total of 944.6sq.m. The quantum of communal open space exceeds the requirements required by the Apartment Guidelines for the proposed mix of units (393sq.m.). I consider the landscaping proposals for the courtyards which comprises lawn areas, terracing, planting and seated areas to be of high quality.
- 7.6.6. The applicant has presented a schedule of floor areas as part of the Architectural Design Statement. This indicates that all of the proposed apartments exceed the

minimum standards for apartments as set out in the Sustainable Urban Housing: Design Standards for New Apartments 2018, in terms of minimum apartment sizes (exceeded by 10%), aggregate bedroom floor areas, living room widths, kitchen/living dining room areas, aggregate storage areas and balcony sizes.

- 7.6.7. On review of the schedule of floor areas, I note that there are anomalies between the floor areas cited in the schedule and those indicated on the floor plans. Notwithstanding this, the proposed apartments appear to meet and exceed the required standards.
- 7.6.8. On an overall basis on review of the layout I consider a limited set back from the eastern site boundary and the interface with the Broadmeadow River which includes an access road is poor and does little to contribute to the amenity of the area.
- 7.6.9. I have concerns relating to the residential amenity of future residents and consider that the proposal would not provide for adequate levels of privacy for future residents and would give rise to an unacceptable level of overlooking between apartments due to inadequate separation distances (entrance terraces from units 32 and 49 which are located c.4m from the kitchen/ living room windows of units 28 and 45). I also have concerns relating to privacy associated with the proposed terrace access arrangements.
- 7.6.10. I consider that the block format and provision of overhanging balconies and walkway/terrace podium would impact on daylight levels to units. A case is made within the application documentation that the scheme has been developed to maximise natural daylight, ventilation and views. Reference is made to the fact that 81% of all units are dual aspect in their orientation to ensure that all-natural daylight is maximised. However, no assessment of daylight levels to the proposed apartment units is provided as part of the application. Significant overshadowing of the proposed communal open space is also illustrated within the shadow study and analysis.
- 7.6.11. On an overall basis it is my view that the proposed development, by reason of its scale, bulk and massing, inadequate separation distances from the eastern site boundary and encroachment on open space zoned lands would produce a cramped and substandard form of development on this site, result in substandard amenity for

future occupants and represent an overdevelopment of the site. I recommend that permission is refused on this basis.

- 7.6.12. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

### Height

- 7.6.13. Reference is made within observations on the appeal to the planning history of the site wherein planning permission was refused for a 4-storey mixed use development on the site and concerns relating to excessive height in the context of the existing skyline of Ratoath and the impact of the proposal on the amenity of adjoining residential areas were raised.
- 7.6.14. Section 3.5 of the LAP relates to housing development within Ratoath. This outlines it is imperative that the traditional character of Ratoath is respected and maintained, and that Ratoath is not considered suitable for *“high density apartment developments which would be out of character with the existing built form”*.
- 7.6.15. In considering the existing site context, I note that the scale of the historical built environment in Ratoath village is generally low, comprised predominantly two storey structures within the village core and newer developments of 3 storeys. The existing pattern of development in the vicinity of the site includes residential developments of Meadowbank Hill and Clonkeen to the south east and south west, a 3 storey mixed use development at Riverwalk Court to the west at the opposite side of Fairyhouse Road and single and 2 storey residential developments to the north.
- 7.6.16. Building heights within the development range from three to five storeys. The height of the residential building varies and is generally 4 storeys with 3 storey vertical elements increased locally to 5 storeys (maximum height 18.9m) at the entrance cores fronting onto Fairyhouse Road. The proposed commercial element of the scheme is generally 3 storeys above Fairyhouse Road Street level with a fourth storey set back from the building line.
- 7.6.17. A case is made within the application documentation that the proposed heights of part 4 and part 5 storeys are a progressive, respectful and necessary transition in height from the 3 storey buildings at Riverwalk Court and Centrepoint to the

northwest the pitched roofs of which give them the same height and profile of a 4 storey building. A staggered height is proposed to break down the mass and form of the development.

- 7.6.18. Having regard to the size, location, separation distances from adjacent residential properties and profile of the site along Fairyhouse Road I consider that the principle of the proposed height is acceptable at this location subject to layout, design and amenity considerations.
- 7.6.19. However on review of the application and appeal documentation, I consider that limited information has been provided by the applicant to visually demonstrate how the proposal responds to the existing site context and relates to the overall pattern of development within Ratoath. A full Sunlight and Daylight Assessment of the proposed development and adjoining areas should also be submitted in accordance with the requirements of SPPR3 of the Building Height Guidelines.

#### **7.7. Impact on Residential Amenity**

- 7.7.1. A number of concerns relating to impact on residential amenity are raised within the observations on the appeal. Such concerns relate to overlooking, overshadowing, noise impact and antisocial behaviour.

##### Overlooking

- 7.7.2. The issue of overlooking on the adjacent property to the east of the site was raised by Meath County Council within the request for further information and is addressed within the response to the request for further information prepared by Lafferty Architects. This provides an assessment of the existing site context and identifies that separation distances between the development and adjoining land uses will negate against overlooking.
- 7.7.3. Having regard to separation distances between the appeal site and adjoining residential properties I do not consider that issues of overlooking arise which would negatively impact on the residential amenity of adjoining residential properties. The provision of screening on the eastern elevation of the proposed balconies will negate against overlooking to adjoining lands to the east.

### Daylight, Sunlight and Overshadowing

- 7.7.4. The FI response includes a study of the potential impact of the proposal on daylight and sunlight available to adjoining properties. This details that due to separation distances or orientation of habitable rooms there would be no significant adverse impact upon surrounding properties.

In terms of overshadowing it is stated that a minor level will occur at St. Jude's to the north east of the site but the impact on residential amenity is expected to be minimal having regard to the heavily vegetated nature of the existing boundary which inhibits evening light to the west. From review of the shadow analysis I further note overshadowing to the north of the development. I consider that the overshadowing impact of the proposal on amenity spaces associated with residential properties to the north is not sufficiently identified or addressed within the application.

### Noise and Antisocial behaviour

- 7.7.5. Observations on the appeal raise concern in relation to the commercial elements of the scheme and potential noise and anti-social behaviour associated with same. This element of the appeal site is zoned for town centre zoned site within Ratoath and the proposed mix of uses is in accordance with the B1 zoning objective.
- 7.7.6. I consider that concerns relating to noise associated with the proposal, in particular the proposed restaurant use, could be addressed via a condition on hours of operation and delivery hours in the instance of a grant of permission.

## **7.8. Other Issues**

### Demolition of Existing Buildings

- 7.8.1. Observations on the application raise concern in respect of the proposed demolition of existing vernacular buildings on the site to accommodate the proposal. Such concerns are reflected within the Conservation Officer's report prepared in respect of the application.
- 7.8.2. I note that these buildings are not designated as Protected Structures or identified within the NIAH. The principle of the demolition of existing buildings on site was furthermore accepted by Meath County Council and An Bord Pleanala under previous applications pertaining to the site. In this regard, I have no objection in

principle to the demolition of existing buildings to accommodate the redevelopment of the site.

#### Archaeology

- 7.8.3. The site is located within an Area of Archaeological Interest as identified within the Ratoath Local Area Plan. An Archaeological Assessment prepared by the Archaeological Consultancy Services Unit was submitted in response to Meath County Council's request for further information. This details that the appeal site is located within the zone of archaeological potential for the historic town of Ratoath.
- 7.8.4. Test trenching was carried out within the southern portion of the site and no features or objects of significance were identified. The assessment details that a substantial portion of the northern part of the site could not be tested due to the presence of standing buildings and access to the south western portion of the site adjacent to the River Broadmeadow was not available.

The study recommends archaeological monitoring is carried out during groundworks associated with the proposed development. I note the contents of the submission on the application by the Department of Culture, Heritage and Gaeltacht which raises no objection to the principle of the proposal subject to condition relating to archaeological monitoring.

#### Water and Sewerage Infrastructure

- 7.8.5. Observations on the application raise concern in relation to the prematurity of the proposal on grounds of insufficiency in Water and Sewerage Infrastructure. In considering the issues raised I note that no objection to the proposal was raised by either Irish Water or the Water Services Department of Meath County Council subject to compliance with conditions. I have no objection to the proposal in this regard.

#### Insufficient Justification & Details

- 7.8.6. The observations on the appeal outline that an insufficient justification for the various elements of the scheme has been provided within the application. The need for the retail element of the proposal is questioned in light of vacancy levels within Ratoath, the requirement for the proposed Health Centre is raised and furthermore a case is made that there is no requirement for apartment format development within Ratoath.



- 7.8.7. At the outset in considering the concerns raised I note that all of the proposed uses are listed as permitted uses on the B1 zoned portion of the appeal site. The principle of the redevelopment of an underutilised brownfield town centre zoned site is welcomed and in accordance with the sustainable development of the town.
- 7.8.8. In terms of the retail elements of the proposal, I consider that the appeal site provides a natural extension to the retail core of Ratoath and having regard to the nature and scale of the proposal (which accommodates a pharmacy, estate agents and non-food retail store), the B1 town centre zoning objectives pertaining to the site and the existing pattern of development within the immediate vicinity of the site I have no objection in principle to the proposal.
- 7.8.9. A retail impact statement was submitted in response to Meath County Council's request for further information which identified limited retail vacancy within the town core (5.3%). I do not consider that the proposed retail elements of the scheme represent a scale or format of development which could materially impact on the vitality or viability of the retail core of Ratoath.
- 7.8.10. I furthermore have no objection in principle to the proposed Health Centre element of the scheme and consider that residential development as part of a wider mix of uses within the site is appropriate and an apartment format can contribute to the overall mix of residential development within the town.
- 7.8.11. The applicant has provided confirmation that a management company will maintain the standard of development in accordance with the Multi Unit Development Act 2011. Concerns raised within observations relating to fire safety are subject to other development codes.

## 7.9. **Appropriate Assessment**

### Appropriate Assessment Screening

#### 7.9.1. *Compliance with Article 6(3) of the Habitats Directive*

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### 7.9.2. *Background on the Application*

The applicant has submitted a screening report for Appropriate Assessment and a Natura Impact Statement prepared by Altamar Ltd. as part of the planning application.

The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

The applicants AA Screening Report concluded that as the proposed works would be within the vicinity of a watercourse that is hydrologically linked to two Natura 2000 sites, standard construction phase controls are proposed to prevent water quality impacts on the Broadmeadow River and in light of recent legal cases and precautionary principle a Natura Impact Statement will be carried out for the Malahide Estuary SAC and SPA.

The Screening Assessment set out within the planning authority's planning report outlines the following:

*"The Planning Authority concludes that the proposed development (entire project), by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European sites(s). Mitigation measures are outlined in the NIS to prevent any impact on the integrity of any of the relevant Natura 2000 sites".*

Having reviewed the documents I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### 7.9.3. *Likely significant effects*

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

#### 7.9.4. *Brief description of the development and site*

Section 4.0 of the Screening Report for AA provides an overview of the project. In summary, the development comprises:

- The demolition of all structures on site;
- Development of a scheme ranging in height from 1 to 5 storeys with partial basement comprising 57 no. apartments, 3 no retail units, restaurant, healthcare centre, 113 no. car parking spaces and 185 no. cycle parking spaces;
- Hard and soft landscaping and open space including a plaza, 2 no. courtyards and riverside amenity which includes a pedestrian bridge crossing the Broadmeadow River;
- It is proposed to discharge surface water run off from the site into the River Broadmeadow, run off will be attenuated back to greenfield run off rates;
- Foul water connects to the existing Irish water foul system

Section 4 of the Screening Report for AA describes the development site. The north-western corner of the site is described as a brownfield characterised by existing derelict buildings and farm sheds. The central portion of the site is described as greenfield with evidence of significant clearance in recent years. The Broadmeadow River traverses the southern portion of the site.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction phase controls -silt traps and surface drainage

#### 7.9.5. *Submissions and Observations*

The submission from Inland Fisheries Ireland notes that the Broadmeadow River is an important salmonoid system with Brown Trout and Salmon in lower reaches. Risk of pollution of river associated with the proposal from poor on site construction practices. All works should be completed in line with a Construction Management Plan which ensures good construction practices.

#### 7.9.6. *European Sites*

The development site is not located in or immediately adjacent to a European site.

The nearest designated sites are identified within the report as follows:

- Broadmeadow/ Swords Estuary (Malahide Estuary) SPA (Site Code IE0004025) – 17.5km
- Rye Water Valley/ Carton SAC (Site Code – IE001398) – 14.2km
- Malahide Estuary SAC (Site Code IE 0000205) – 17.6km

A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

European Site	Qualifying Interest features and Conservation Objectives  Maintain Favourable Conservation Status: M  Restore Favourable Conservation Status: R	Details/ Reasons	Considered further in screening Y/N
Malahide Estuary SAC (000205) 17.5km	Mudflats and sandflats not covered by seawater at low tide [1140] <b>M</b>  Salicornia and other annuals colonising mud and sand [1310] <b>M</b>  Atlantic salt meadows (Glauco-	The proposed development site is located within a built-up urban area. Hydrological connection via Broadmeadow River which traverses the site.  No direct impacts on the qualifying interests of the SAC will occur due to the distance from the site (>17km).	Yes

	<p>Puccinellietalia maritima) [1330] <b>R</b></p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410] <b>M</b></p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] <b>R</b></p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] <b>R</b></p>	<p>Indirect effects which might arise from decreased water quality as a result of the construction related impacts on the Broadmeadow Stream are unlikely due to the limited scale of the development and intervening distance of over 17km. Standard construction management is proposed to manage the site which would ensure no local decrease in water quality of the Broadmeadow Stream. This is examined in more detail in the AA Screening.</p>	
<p>Malahide Estuary SPA (004025) 17.5km</p>	<p>Great Crested Grebe (Podiceps cristatus) [A005] <b>M</b></p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046] <b>M</b></p> <p>Shelduck (Tadorna tadorna) [A048] <b>M</b></p>	<p>The proposed development site is located within a built-up urban area. Hydrological connection via Broadmeadow River which traverses the site.</p> <p>No direct or indirect impacts on the qualifying interest of the</p>	<p>Yes</p>

	<p>Pintail (<i>Anas acuta</i>) [A054] <b>M</b></p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067] <b>M</b></p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069] <b>M</b></p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130] <b>M</b></p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140] <b>M</b></p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141] <b>M</b></p> <p>Knot (<i>Calidris canutus</i>) [A143] <b>M</b></p> <p>Dunlin (<i>Calidris alpina</i>) [A149] <b>M</b></p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156] <b>M</b></p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] <b>M</b></p> <p>Redshank (<i>Tringa totanus</i>) [A162] <b>M</b></p> <p>Wetland and Waterbirds [A999] <b>M</b></p>	<p>SPA is foreseen due to the limited area of works in both area and temporal extent. All operations will be a minimum of 17.5km from the SPA.</p>	
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Rye Water Valley/ Carton SAC Site Code (001398) 14.2km	Petrifying springs with tufa formation (Cratoneurion) [7220] <b>M/R</b> Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] <b>M/R</b> Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] <b>M/R</b>	The proposed works are located a minimum of 14.2km from this SAC. No potential impact foreseen. There is no direct or indirect hydrological pathway from the proposed works to the SAC. There is no possibility of any impacts on the site.	No
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Having regard to the characteristics of the development, the location of the appeal site within the built up area of Ratoath, the absence of a pathway to and the separation distance to the Rye Water Valley/Carton SAC, I am satisfied that Rye Water Valley/ Carton SAC can be screened out of any further assessment due to the absence of any ecological connection between the European site and the proposed development.

The Screening report identifies a hydrological link to the Broadmeadow/ Swords (Malahide Estuary) SPA and Malahide Estuary SAC via the Broadmeadow River which traverses the site. Table 2 of the report identifies that no impact on the qualifying interests of the SAC and SPA are foreseen “due to the limited nature and works in both area and temporal extent” and all works will be a minimum of 17.5km from the designated sites.

*7.9.7 Identification of likely effects*

The Screening report outlines that as the proposed works are within the vicinity of a watercourse, standard construction phase controls are proposed to prevent water quality impacts on Broadmeadow River. Such measures are identified within the report as follows:

- Appropriate storage of fuels, oils and chemicals on site;

- Silt interception system will be prepared including silt netting along the boundaries with the stream;
- Measures to ensure run off from site during construction is contained;

The report outlines that these construction phase controls are to maintain water quality in the stream in compliance with the Water Pollution Acts and would be in place whether the Natura 2000 site was hydrologically linked to the Natura 2000 sites or not.

A Natura Impact Statement is prepared by the applicant on the basis of the precautionary principle as standard construction phase controls are proposed on a watercourse which is hydrologically linked to designated SAC and SPA. However, having regard to the nature and extent of the proposed development and its distance from designated Natura 2000 sites and the nature of measures proposed I consider that there are no individual elements of the proposed project that are likely to give rise to significant effects on the designated sites at the Broadmeadow/ Swords (Malahide Estuary) SPA and Malahide Estuary SAC.

Although a source-pathway-receptor linkage exists between the application site and the designated habitats of Malahide Estuary SAC / SPA, in this instance, given the scale of the proposed development, I consider the downstream distance of 17.6km is sufficient to ensure that no impacts will arise.

As there are no impacts to the SAC or SPA arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

#### *7.7.10 Screening Determination*

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on European sites Broadmeadow/ Swords Estuary (Malahide Estuary) SPA (Site Code IE0004025), Malahide Estuary SAC (Site Code IE 0000205), Rye Water Valley/ Carton SAC (Site Code – IE001398) or any other



European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

This determination is based on the following:

The characteristics of the development, the location of the appeal site within the built up area of Ratoath and the separation distance between the site and designated Natura 2000 sites.

## 8.0 Recommendation

- 8.1. I recommend that planning permissions is refused for the proposed development in accordance with the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. A significant portion of the site is zoned for FI Open Space purposes within the Ratoath Local Area Plan 2009-2015 with an objective *"to provide for and improve open spaces for active and passive recreational use"*. This objective is considered reasonable. The proposed development which seeks to primarily develop the open space zoned portion of the site for residential and associated development would contravene materially the zoning objective indicated in the Local Area Plan for the use solely or primarily for open space purposes and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its scale, bulk and massing on a restricted site area would result in substandard amenity for future occupants and constitute an overdevelopment of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

*Note: 'This is a new issue in the appeal and the Board may wish to seek the views of the parties.'*

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Stephanie Farrington  
Senior Planning Inspector  
1<sup>st</sup> of December 2020