



An
Bord
Pleanála

Inspector's Report

ABP-308140-20

Development

PHASE 1: Construction of a residential, commercial and community services development. A Natura Impact Statement for the proposed development has been prepared and is available to view with the planning documentation.

Location

Townlands of Toberburr and Westereave, Rivermeade, Toberburr Road, Swords, Co. Dublin.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F19A/0638

Applicant(s)

Rivermeade Properties Limited

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First / Third Party

Appellant(s)

(1) Rivermeade Properties Limited
(2) Aidan Duggan

Observer(s)

DAA

Date of Site Inspection

11th December 2020

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 12.73 hectares, is located to the north of the city a short distance to the north west of Dublin Airport, on the eastern side of Toberburr Road and north the Rivermeade housing development. The appeal site consists of part of a green area serving Rivermeade, an area to the north of Rvermeade including a wastewater treatment system and a number of fields in agricultural use. The Ward River traverses the southern portion of the site (east west axis). Existing development in the vicinity include the existing housing in Rivermeade (two-storey terraced dwellings). The site surrounds two separate properties on three sides that are located off the Toberburr Road. This includes a single-storey dwelling and farmyard just north of the Ward River and the appellant's property, which is a dormer style dwelling located further north. Existing boundaries on the appeal site include trees and hedgerows that make up the individual field boundaries.

2.0 Proposed Development

- 2.1. Permission is sought for Phase 1 of a two phase residential, commercial and community services development. Phase 1 will consist of 99 houses, 2 x 2 bed dormer dwellings, 74 x 3 bed two-storey dwellings and 23 x 4 bed two-storey dwellings. With associated car parking, public open space and children's play area; a two-storey building containing a crèche (321.9sqm) over two floors and a local shop (192.9sqm) with off/commercial use above (209.5sqm); a new 3.56 hectares public park (including a replacement sports pitch) to the north and a new access road from Rivermeade Drive to the development including a bridge over the Ward River, a new sewerage pumping station and drainage system connecting to the public sewer, together with on electricity sub-station and all associated site works, landscaping and boundary treatments. Emergency access is provided to the Toberburr Road.
- 2.2. Revisions were made in response to further information requests including an amendment to the number of units from 98 to 93 units, revision of the location of the pumping station to maintain 35m separation distance from any dwelling (Development Plan requirement) and a revised access road to such outside of Flood Zone C

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 27 conditions. Of note are the following conditions...

Condition 5: Clearing of vegetation to be outside main bird nesting season.

Condition 6: bat roost survey required.

Condition 8: The crèche building is to have a natural grey stone external finish.

Condition 9: Revised layout to be agreed including a cycle track over the proposed bridge and its connectivity to the Ward Valley greenway.

Condition 10: Boundary treatment specifications.

Condition 15: Public art.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (25/02/20): Further information required including all details required by Water Services, the Parks department and Archaeologist. In addition there is requirement for noise impact to be assessed and childcare needs assessment.

Planning report (22/06/20): Clarification of further information including provision of adequate buffer zone around the pumping station, details regarding status of existing wastewater treatment system on site, provision of adequate cycle path infrastructure, the requirements of the Parks department, revisions to the design of dwellings and clarification of the red line boundary of the site.

Planning report (19/08/20): The proposal was considered to be satisfactory in the context of design, scale, development plan policy, traffic and environmental impact. A grant of permission was recommended based on the conditions outlines above.

3.2.2. Other Technical Reports

Community Archaeologist (04/01/20): Archaeological monitoring required in the event of a grant of permission.

Environment and Water Services (09/01/20): Conditions in the event of a grant of permission.

EHO (24/01/20): Conditions in the event of a grant of permission.

Water Services (20/01/20): Further information required regarding surface water management.

Irish Water (13/02/20): No objection.

Conservation Officer (17/02/20): No objection.

Parks Department (17/02/20): Further information required including details of surface water management, details regarding the design of open space, boundary treatment details, details of the location of the cycle path along the Ward River, details of relocation of the ESB substation and tree planting proposals.

Transportation Planning (24/04/20): Conditions in the event of a grant of permission.

Water Services (11/05/20): Issues concerning the location of the proposed pumping station and the substation of existing wastewater treatment facility with the proposed pumping station.

Environment and Water Services (25/05/20): Clarification of details including a construction and water demolition plan.

Architects Department (16/06/20): Suggested improvement to architectural design of proposal.

Parks Department (17/06/20) Clarification required regarding public open space provision, boundary treatment and cycle path infrastructure.

Water Services (04/08/20): No objection subject to conditions.

Parks Department (11/08/20) No objection subject to conditions.

Transportation Planning (no date): No objection subject to conditions.

3.3. Prescribed Bodies

IAA (17/01/20): No observations.

NTA (31/01/20): regard to be had addressing issues concerning lack of alternative modes of transport other than vehicular traffic in terms accessibility.

DAA (03/02/20): Further information or appropriate condition required in terms of predicted noise environment, internal noise levels and noise mitigation measures.

DAA (22/05/20): The Acoustic Design Statement submitted is noted and a condition should be applied requiring implementation of Section 6 of this report.

Department of Culture, Heritage and the Gaeltacht (26/05/20): Conditions required to in regards to protection of water quality, bird and bat species.

NTA (05/06/20): Regard to be had addressing issues concerning lack of alternative modes of transport other than vehicular traffic in terms accessibility. Improvement required regard provision cycle infrastructure.

3.4. Third Party Observations

Two third party submission were received. The issues raised can be summarised as follows...

- Non-compliance with the LAP, excessive level/density of dwellings proposed in comparison to LAP figures, inadequate level of open space/failure to preserve rural character, failure to adhere to phasing requirements of LAP for Development Areas, failure to provide clarity regarding the intersection of the main north south access road and existing east west agricultural right of way, impact on existing residential amenity, reduced privacy, existing percolation area serving a dwelling on the appeal site, inadequate road network, ecological impact.

4.0 Planning History

- 4.1 ABP-308142-20: Permission sought for PHASE 2: Construction of a residential, commercial and community services development on a site adjoining the appeal site

to the east. This proposal provides for 99 no. dwellings. Refused based on two reasons...

1. The proposed development in itself and cumulatively would, by reason of existing deficiencies in the road network serving the proposed development including insufficient capacity to cater for the increased road traffic that would be generated from the development and poor connectivity for pedestrians and cyclists would endanger public safety by reason of traffic hazard. The proposed development is also considered premature pending the necessary upgrades of the adjoining road network and would therefore be contrary to the proper planning and sustainable development of the area.

2. Fingal County Council's minimum requirements for public open space provision and playground provision have not been met therefore the proposed development would result in a dense suburban type development which would be out of character in this rural setting. The excessive scale of the proposed 98 residential unit development would be out of character with the amenities of this rural area. The proposed development would therefore be contrary to the proper planning and development of the area.

4.2 F19A/0291: Permission refused for Phase I of a three-phase masterplan for a residential, commercial and community services development, consisting of The 77 no. houses, a new access road from Rivermeade Drive to the development including a bridge over the Ward River, a new sewerage pumping station and drainage system connecting to the public sewer, together with one electricity sub-station and all associated site works, landscaping and boundary treatments.

Refused based on 5 no. reasons...

1. The Rivermeade Local Area Plan (LAP) 2018 establishes that Rivermeade has the capacity to accommodate c. 273 additional residential units following assessment of the remaining available residential capacity under the Core Strategy

for the identified small towns and villages in the Metropolitan Area. The proposed development, by reason of the significant quantum of residential development approximately 114% additional units above that identified for Development Area 11 Rivermeade, would materially contravene the Rivermeade Local Area Plan 2018. Furthermore, the proposed development by reason of suburban type design and layout with resultant removal of a considerable amount of trees and hedgerows does not integrate with the rich rural landscape contrary to the objectives of the Village Development Framework Plan and Design Guidance and, as such, the proposed does not meet with the criteria (as set out in section 6.8 (i)-(iv) of the Rivermeade LAP) to justify a further increase in density of these lands. The proposed development is therefore, contrary to the proper planning and sustainable development of the area.

2. The phasing and implementation plan contained in the Rivermeade Local Area Plan (LAP) 2018 outlines the optimal sustainable development strategy for the village in tandem with the timely delivery of the necessary physical infrastructure, in particular the necessary road improvements. The key issues of road infrastructure to serve the proposed development as required by the Rivermeade LAP have not been addressed. Road upgrades have not been included as part of the planning application, therefore the likely effects of said upgrades on the current layout cannot be properly assessed. The proposed development would be premature due to the deficiency in the existing road network serving the area, including considerations of width, capacity and alignments which would render the existing road network unsuitable to carry the increased road traffic likely to result from the proposed development therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

3. The rear site boundaries of a number of properties to the south east of the proposed pumping station do not comply with the Fingal Development Plan Objective WT12 which requires a separation distance of 35 to 50 metres from the pumping station. The proposed sewerage pumping station by reason of its location within the riparian corridor of the Ward River and proximity to existing houses in Rivermeade is also contrary to Objective WQ05 of the Fingal Development Plan

2017-2023. As such the proposed development would be contrary to the proper planning and development of the area.

4. The proposed removal of a considerable amount of mature hedgerow and trees (in particular Hedgerow No's 15, 17B and 21), as identified on the Tree Protection Plan drawing, would adversely impact upon the landscape quality of this rural area contrary to the green infrastructure objectives contained in Section 10.3 of the Rivermeade Local Area Plan and would be detrimental to the biodiversity of this rural site. Therefore the proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

5. The Planning Authority is not satisfied on the basis of the information submitted in relation to surface water drainage proposals and flood risk of the proposed new pumping station that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.3 F19A/0292: Permission refused for Phase II of a three-phase masterplan for a residential, commercial and community services development consisting of 82 no. houses, a new access road from Rivermeade Drive to the development including a bridge over the Ward River, a new sewerage pumping station and drainage system connecting to the public sewer, together with one electricity sub-station, landscaping and boundary treatments.

Permission refused based on 5 no. reasons.

1. The Rivermeade Local Area Plan (LAP) 2018 establishes that Rivermeade has the capacity to accommodate c. 273 additional residential units following assessment

of the remaining available residential capacity under the Core Strategy for the identified small towns and villages in the Metropolitan Area. The proposed development of 82 residential dwellings represents approximately 30% additional units over the established development parameters for Development Area 10 in the Rivermeade Local Area Plan 2018. Furthermore, the proposed development by reason of suburban type design and layout with resultant removal of a considerable amount of trees and hedgerows does not integrate with the rich rural landscape contrary to the objectives of the Village Development Framework Plan and Design Guidance and, as such, the proposed does not meet with the criteria (as set out in section 6.8 (i)-(iv) of the Rivermeade LAP) to justify a further increase in density of these lands. The proposed development is therefore, contrary to the proper planning and sustainable development of the area.

2. The phasing and implementation plan contained in the Rivermeade Local Area Plan (LAP) 2018 outlines the optimal sustainable development strategy for the village in tandem with the timely delivery of the necessary physical infrastructure, in particular the necessary road improvements. The key issues of road infrastructure to serve the proposed development as required by the Rivermeade LAP have not been addressed. Road upgrades have not been included as part of the planning application, therefore the likely effects of said upgrades on the current layout cannot be properly assessed. The proposed development would be premature due to the deficiency in the existing road network serving the area, including considerations of width, capacity and alignments which would render the existing road network unsuitable to carry the increased road traffic likely to result from the proposed development therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

3. The rear site boundaries of a number of properties to the south east of the proposed pumping station do not comply with the Fingal Development Plan Objective WT12 which requires a separation distance of 35 to 50 metres from the pumping station. The proposed sewerage pumping station by reason of its location within the riparian corridor of the Ward River and proximity to existing houses in Rivermeade is also contrary to Objective WQ05 of the Fingal Development Plan

2017-2023. As such the proposed development would be contrary to the proper planning and development of the area.

4. The proposed removal of a considerable amount of mature hedgerow and trees as identified on the Tree Protection Plan drawing, would adversely impact upon the landscape quality of this rural area contrary to the green infrastructure objectives contained in Section 10.3 of the Rivermeade Local Area Plan and would be detrimental to the biodiversity of this rural site. Therefore the proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

The Planning Authority is not satisfied on the basis of the information submitted in relation to surface water drainage proposals and flood risk of the proposed new pumping station that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.4 F19A/0293: Permission refused for Phase III of a three-phase masterplan for a residential, commercial and community services development consisting of 84 no. houses, including 8 no. services sites with associated car parking, public open space and all associated site works, a new access road from Rivermeade Drive to the development including a bridge over the Ward River, a new sewerage pumping station and drainage system connecting to the public sewer, together with one electricity sub-station, landscaping and boundary treatments.

Refused based on five reasons...

1. The Rivermeade Local Area Plan (LAP) 2018 establishes that Rivermeade has the capacity to accommodate c. 273 additional residential units following assessment of the remaining available residential capacity under the Core Strategy for the identified small towns and villages in the Metropolitan Area. The proposed

development by reason of suburban type design and layout with resultant removal of a considerable amount of trees and hedgerows does not integrate with the rich rural landscape contrary to the objectives of the Village Development Framework Plan and Design Guidance and, as such, the proposed does not meet with the criteria (as set out in section 6.8 (i)-(iv) of the Rivermeade LAP) to justify a further increase in density of these lands. The proposed development is therefore, contrary to the proper planning and sustainable development of the area.

2. The phasing and implementation plan contained in the Rivermeade Local Area Plan (LAP) 2018 outlines the optimal sustainable development strategy for the village in tandem with the timely delivery of the necessary physical infrastructure, in particular the necessary road improvements. The key issues of road infrastructure to serve the proposed development as required by the Rivermeade LAP have not been addressed. Road upgrades have not been included as part of the planning application, therefore the likely effects of said upgrades on the current layout cannot be properly assessed. The proposed development would be premature due to the deficiency in the existing road network serving the area, including considerations of width, capacity and alignments which would render the existing road network unsuitable to carry the increased road traffic likely to result from the proposed development therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

3. The rear site boundaries of a number of properties to the south east of the proposed pumping station do not comply with the Fingal Development Plan Objective WT12 which requires a separation distance of 35 to 50 metres from the pumping station. The proposed sewerage pumping station by reason of its location within the riparian corridor of the Ward River and proximity to existing houses in Rivermeade is also contrary to Objective WQ05 of the Fingal Development Plan 2017-2023. As such the proposed development would be contrary to the proper planning and development of the area.

4. The proposed removal of a considerable amount of mature hedgerow and trees as identified on the Tree Protection Plan drawing, would adversely impact upon the

landscape quality of this rural area contrary to the green infrastructure objectives contained in Section 10.3 of the Rivermeade Local Area Plan and would be detrimental to the biodiversity of this rural site. Therefore the proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

5. The Planning Authority is not satisfied on the basis of the information submitted in relation to surface water drainage proposals and flood risk of the proposed new pumping station that the development would not be prejudicial to public health or pose an unacceptable risk of environmental pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Fingal Development Plan 2017-2023. The appeal site is split over three zonings. The majority of the appeal site is zoned RV (Rural Village) with a stated objective 'to protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure'.

A small part of the site is zoned GB (Greenbelt) with a stated objective to 'protect and provide for a Greenbelt'.

The field area to north of the site is zoned RU (Rural) with a stated objective to 'protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'.

Rivermeade Local Area Plan 2018

The vision statement for the LAP is ‘to promote the renewal of Rivermeade as an attractive and vibrant village, ensuring its sustainable expansion and development at a level appropriate to and integrated with the existing settlement, to meet the housing, socio-economic and civic aspirations of the community, whilst at the same time affording maximum environmental protection and developing the village’s distinctive character, amenity and local identity.’

The LAP includes a Village Development Framework Plan and Design Guidance (VDFP) and is split into 11 Development Areas with regarding the nature and density of development appropriate for such areas.

Residential Densities within the Village and Potential Development Yield:

Rivermeade has the capacity to accommodate circa 273 additional residential units. This will increase the population of Rivermeade from circa 600 to approximately 1,334, and it is anticipated that this population increase will take place over a minimum period of 20 years

Section 16.1 Phasing and Implementation

The phasing requirements for development on the LAP lands are set out. The key requirements include...

- New housing and other forms of development will proceed following the completion of the Toberburr pumping station and pipe connection to Swords Waste Water Treatment Plant.
- The Rivermeade Link Road and the upgrade of Killeek Lane shall be facilitated by Fingal County Council in the context of development proceeding within the Plan lands in conjunction with the main landowners within the Plan lands. In this regard no more than 40 of the 81 [< 50%] indicative housing units in areas 2, 3 and 5 shall be sold pending the construction of the Rivermeade Link Road and the upgrade of Killeek Lane.
- The upgrade of the Toberburr Road shall be facilitated by Fingal County Council during the construction of housing in the plan lands. No more than 40 of the 81 [<50%] indicative housing units in areas 2, 3 and 5 and no more than 81 of the

indicative 162 [50%] housing units in areas 9, 10 and 11 shall be sold pending the undertaking of adequate improvements along Toberburr Road by Fingal County Council in conjunction with the main landowners in the Plan lands.

- No house completions shall take place within the LAP lands on the north side of the Ward River until such time as the new road and bridge crossing is constructed.
- In the interests of controlling the pace of development and ensuring that the new development is well integrated with existing development and in tandem with the necessary physical and social infrastructure, it is an objective of this LAP that individual planning applications / applications for planning consents shall be submitted for each of the entire 11 proposed development areas, and the phasing of future development within each such area shall be clearly indicated as part of the planning applications/ applications for consents.
- No development shall take place within Development Area 1 until the existing football pitch has been replaced within the LAP lands, or at a suitable alternative location within the Rivermeade area.
- Fingal will promote the early development of: the new Recreational Hub in Development Area 4; the Sustainable Living Centre in Development Area 8; the allotments in Development Area 7 and the new recreational amenities within Development Area 6.
- Fingal County Council will encourage and promote the early development of the proposed uses, in particular retail, commercial, service and community uses in Development Area 1.

5.2. Natural Heritage Designations

Malahide Estuary SAC (Site Code 00205), 5.07km from the site.

Malahide Estuary SPA (Site Code 004025), 5.25km from the site.

5.3. EIA Screening

Having regard to the nature and scale of the development which consists of a 99 unit housing development on zoned and serviced lands, there is no real likelihood of

significant effects on the environment arising from the proposed development. There is a concurrent application on adjoining lands for 99 units under ABP-308142-20. Taking this development into account the proposal is still significantly lower in the number of units for which a mandatory Environmental Impact Assessment would be required (500 units). The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Armstrong Planning on behalf of the applicant, Rivermeade Properties Limited. The grounds of appeal are as follows...

- The appeal is against the application of conditions no. 12 (a), 12 (d) and 18 (g).
- Condition 12 (a) requires the existing wastewater treatment plant to be removed and disposed of in agreement with Irish Water. The appellant states that the existing wastewater treatment plant is under the control of Irish Water and does not fall within the development plans. It is considered that the removal of the treatment plant is a matter for Irish water. The appellants note Section 28 of the Planning development Act, 2000 (as amended) and the issue of enforceable conditions. The appellants request that this condition be removed.
- Condition no. 12(d) relates to the preservation in-situ or removal of an existing septic tank serving a private dwelling. The appellant notes that it is the percolation area of septic tank serving a private dwelling that is on the appeal site. It is noted that the applicant is not in a position to either preserve it in-situ or remove it and it is unreasonable to attach a condition requiring agreement with a third party. The applicant/appellant is in a position to provide alternative connection arrangements to the owner of the percolation area subject to agreement. The appellant considers that such is not a matter that should

preclude granting of permission and is a matter which would be dealt with in due course.

- Condition no. 18(g) provides for restrictions in the timing of deliveries to the proposed retail unit including a delivery window of 07.30-8.00hrs Monday to Friday. The appellant considers that such may be a typographical error and wishes the Board to correct such to a 07:30-20:00hrs.

6.1.2 A third party appeal has been lodged by Aidan Duggan, Grass Roots, Toberburr Road, St. Margarets, Co. Dublin, K67 D430. The grounds of appeal are as follows...

- The relocated playing pitch should not be considered as fulfilling the public open space requirement of the development and the overall requirements for public open space under the Rivermeade LAP.
- The existing road network in the area is inadequate in width and alignment and requires improvement to serve the proposed development and future developments and concerns regarding traffic safety.
- The football pitch was to be relocated to an area labelled area 4 under the LAP. The current proposal relocates it to an alternative site outside of the LAP boundary in contravention of such. This area is not overlooked by dwellings or sufficiently integrated with proposed development.
- The development fails to adequately integrate with the existing settlement which is an objective of the LAP.
- The percolation area serving the appellants septic tank on the application site and there is registered wayleave in this regard. The application interferes with this wayleave with no provision made to allow the appellants access such. The appellant wishes to clarify what the details and protections in place in the event that the existing arrangement is retained with the percolation area remaining in-situ and whether an alternative connection to separate infrastructure is made instead.
- The appeal site surrounds the third party appellant's property and the appellant has expressed concerns regarding visual impact and significant

change in outlook from the current rural environment to the housing development. The appellant notes the design has inadequate regard to rural character of the area and character of the existing settlement. The proposal would also mean a reduction in privacy due to location of dwellings relative to the appellant's property.

- The appellant notes concerns regarding the lack of clarity regarding boundary treatment where the site adjoins his property and raises concerns regarding visual impact, security and privacy. The appellant considers an appropriate boundary treatment would be a 3m high stone wall along all sides.
- The location of public open space area is inappropriate being to the rear of the appellant's dwelling with concerns regarding noise impact and anti-social behaviour.
- The appellant has raised concerns regarding potential noise impact due to the dramatic change in nature of land use adjacent his property. The appellant also raises concern regarding such impact as well as vibration impact during the construction phase as well. Appropriate restrictions are required including restriction of construction hours.
- The appellant questions whether existing power lines on site require rerouting to facilitate the development.
- The application is inadequate in terms of details green energy/low carbon emission proposals.
- The appellant raises concern regarding ecological impact in particular regarding bird species within the site and area.

6.2. Applicant Response

6.2.1 Response by Armstrong Planning on behalf of the applicant, Rivermeade Properties Limited.

- The response is to the third party appeal.
- The quantity and design of public space is satisfactory and compliant with development plan policy.

- Road improvements are provided for to the local network under the Fingal Development Plan and the Local Area Plan including the proposed Rivermeade Link Road and improvements to the Toberburr Road. The proposed development would not have significant or adverse traffic impact. There is existing bus services provided for within the Rivermeade residential development.
- The sports pitch is being located on lands zone RU, on which such land use is a permitted development. The location of such is still within walking distance of existing development in the area.
- The proposal has adequate regard to the objectives of the LAP.
- The applicant reiterates the points raised in the appeal submission regarding the percolation area on the appeal site. The applicant has provided an option showing the percolation area fenced off and right of way maintained as well an option providing for connection to the proposed foul sewer network.
- The proposal is considered be acceptable in regard to visual impact and adjoining amenity.
- The applicant notes that the degree of separation between the proposed dwellings and the third party appellant's property is significant and that boundary treatment proposed including a post and rail fence and planting to augment existing hedgerow is sufficient in standard.
- The construction management plan submitted includes noise monitoring proposals.
- The power lines in development area 9 are to be undergrounded and rerouted.
- The dwellings are designed having regard the green energy and low carbon objectives.
- Measures will be put in place to ensure no adverse impact on bird species including retention of hedgerows and vegetation.

6.3. Planning Authority Response

6.3.1 Response by Fingal County Council.

- The removal of the existing wastewater treatment plan on site is in the best interests of the development and agreement should be reached with Irish Water in this regard. The removal of the percolation area on site is also something that is regarded as being appropriate.
- It is noted that sports pitch is overlooked by proposed dwellings in the new development.
- In relation to overhead power lines it was considered a requirement to put those underground would have been an onerous requirement to make.
- The PA request that conditions no.s 11(b), 26 and 27 be included in the event of grant of permission.

6.4. Observations

6.4.1 Observation by the DAA.

- Acoustic Design Statement submitted is noted and a condition should be applied requiring implementation of Section 6 of this report.

6.5. Further Responses

6.5.1 Response by the third party appellant, Aidan Duggan, Grass Roots, Toberburr Road, St. Margarets, Co. Dublin, K67 D430.

- The response is to the first party appeal and in particular the appeal concerning condition no. 12(d). The appellant reiterates the points raised in his appeal submission regarding the existing percolation area on the appeal site.

6.5.2 Further response by the third party appellant, Aidan Duggan, Grass Roots, Toberburr Road, St. Margarets, Co. Dublin, K67 D430.

- The response is to the response by the first party appellant. The natures of issues raised have already been made in the appeal submission and previous response and concern the relocation of the football pitch, overhead lines, open space, road network and the existing percolation area on site.

7.0 **Assessment**

7.1 Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Compliance with Development Plan/Local Area Plan policy

Design, scale, development management standards

Adjoining amenity

Traffic/roads layout

Flooding/Drainage issues

First party appeal

7.2 Compliance with Development Plan/Local Area Plan policy:

7.2.1 As noted above the site is split over three zonings under the Fingal Development Plan. The majority of the site also falls within the Rivermeade Local Area Plan 2018. The proposal does not entail structures or alterations to the portion of the site that is zoned GB. The majority of the site is zoned RV and the nature of the land uses proposed are permitted uses within this land use objective. The field area located to the north of the site is zoned RU with it proposed to provide a sports pitch in this area. This land use is a permitted use within this land use objective. The proposed development and associated land uses is compatible with land use policy and zoning objectives under the Fingal Development Plan.

7.2.2 The majority of the appeal site is within the boundary of the Rivermeade Local Area Plan 2018 (the northern part of the site is outside of the boundary of the LAP). The LAP area is divided into number Development Areas (1, 8, 10 and 11) with development parameters for each area. The third party appellant is critical of the

compliance with the Local Area Plan objectives including integration with the existing settlement and the relocation of the sports pitch to the north of the site instead of Development Area 4. In relation to relocation of the sports pitch to the north of the site, such does not alter the objective of the LAP, which identify development Area 4 as a recreational hub made up of open space and recreational facilities. This area is located to the west of the site and is not within the applicant's landholding. The provision of a sports pitch does not alter the future use of area 4 for recreational purposes however it does lead to questions regarding compliance with the LAP in terms of phasing of development.

7.2.3 The proposal is for 99 units with 93 units approved and with a concurrent proposal for the same applicants for 99 units on a site to the east under ABP-308142. There has been a previous proposals for three phases of development on these land consisting of 243 residential units. These proposal were refused on the basis that the Rivermeade Local Area Plan (LAP) 2018 establishes that Rivermeade has the capacity to accommodate c. 273 additional residential units following assessment of the remaining available residential capacity under the Core Strategy for the identified small towns and villages in the Metropolitan Area. These proposals were refused because the level of residential development proposed was significantly higher than that identified for the Development Areas under the LAP. In this case the approved proposal is for 93 units that coincide with Development Areas 10 and part of 11. Taken in conjunction with the current appeal relating to ABP-308142, which provides for residential development on Development Area 9 and the remainder of 11, the proposal is for 195 units on Development Areas identified as to facilitate circa 154 dwellings and 8 serviced sites. Development Areas 1, 2, 3 and 5 area to facilitate circa 111 no. units of the envisaged for the area. The previous proposals were refused due providing for a higher level of housing.

7.2.4 The area is located in an area that is currently deficient in terms of the existing roads infrastructure with a lack of footpaths and public lighting. The nature of the proposed development its location is such that it is likely to car dependent in terms of modes of transport due to its location remote from the main urban area of the city and more developed settlements. I would consider given the location of the appeals site that

strict adherence to the objectives of the LAP would be necessary to ensure appropriate development. The LAP is clear in terms of the nature and level of development envisaged including the number dwellings and population the lands in question should cater for and such are based on the core strategy of the Fingal Development Plan.

7.2.5 The appeal site has total area of 12.73 hectares. The approved proposal is for 93 units with a density of 7.3 unit per hectare. The appeal site does include part of the public road (Killeek) Lane and area for a crèche and retail unit and a significant level of open space areas. In relation to density the area dedicated to housing has a density of 17.6 units (based on 99 units) per hectare. As noted above there is guidance under the LAP regarding units numbers to be facilitates with a total of circa 273 units to be facilitated within the LAP lands. The proposed housing element and concurrent appeal under ABP-308142-20 are located on development Area 9, 10 and 11. These areas, which total 9.93 hectares and are to facilitate 162 units at a density of 16.3 units per hectare. The proposed residential component on Development Areas 9, 10 and 11 (including ABP-309142) has a density of 21.5 units per hectare (19.5 per hectare taking into account that 93 dwellings were permitted). The level of dwellings being proposed in these Development Areas is in excess of that identified under the LAP.

7.2.6 In relation to phasing, Section 16.1 of the LAP sets out policy for such. The issue of upgrade of the road network in the context of phasing will be dealt with under the traffic section below. The proposal is for development of Development Area 10 and part of 11 with a concurrent proposal (ABP-308142) on lands on the remainder of Development Area 11 and 9. The provision of a football pitch on lands to north in lieu of the loss of the pitch in Development Area 1 is not contrary LAP policy with it noted that “no development shall take place within Development Area 1 until the existing football pitch has been replaced within the LAP lands, or at a suitable alternative location within the Rivermeade area”. The proposal does provide for an alternative location however such is not within the LAP plan area and is at most northern point of the proposal. The phasing policy promotes the early development of: the new Recreational Hub in Development Area 4; the Sustainable Living Centre

in Development Area 8; the allotments in Development Area 7 and the new recreational amenities within Development Area 6. I would consider that the proposal does not comply with the phasing and implementation policy of the LAP in that it entails the provision of a significant level of housing with no regard to the provision of associated community and recreational facilities provided for in the LAP Area in timely manner. Given the fact that the area is a remote location and the whole purpose of the LAP is to ensure the development of housing in tandem with community and recreational facilities to serve both new development and existing housing development lacking in such facilities, the proposal would be contrary to the policies set down under the LAP and would be lead to uncoordinated development lacking in appropriate community and recreational facilities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

7.3 Design, scale, development management standards:

7.3.1 The Guidelines for Planning Authorities for Sustainable Residential Development in Urban Areas provide guidance regard appropriate residential densities depending on location and level of settlement. The location would be edge of small town / village with it stated that “in order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question”. The density proposed would not out of character with national policy, however as noted above the appeal site is part of an area subject to an LAP and given its remote location from a defined urban settlement stricter adherence to such would be merited in this case.

7.3.2 The LAP includes a Village Development Framework Plan (VDFFP). The proposed layout is different to the LAP VDFFP. The layout does provide for a significant level of public open space and retention of a high degree of existing trees and hedgerow on site. I would note that the level of public open space in residential portion of the

development would exceed the requirements of the Fingal Development Plan (a minimum 2.5 hectares per 1000 population or at least 10% of a development site area. This does not include the area to the north zoned RU. All dwellings meet the minimum standards in regards to private open space and parking set out under Chapter 12 of the Fingal Development Plan. All public open space within the residential component is sufficiently overlooked by dwellings. I would note that the design and layout and parking provision for the crèche and retail element is also consistent with Development Plan requirements. The proposal provides for cycle and footpaths through the scheme and adequate linkage to the existing development in Rivermeade. The proposal also provides for an existing right of way running east west and connection to the Ward River greenway. I would consider that provision be made for a pedestrian crossing at this location and would recommend a condition in this regard in the event of a grant of permission.

7.3.3 I would consider that the overall design and layout of the proposed development is satisfactory in the context of overall quality, residential amenities of future residents and subject to retention of existing trees and hedgerow identified/proposed landscaping, the proposed development is satisfactory in the context of overall design and layout.

7.4 Adjoining amenity:

7.4.1 The third party appellant owns the dwelling that is surrounded by the appeal site on three sides. The appellant raises concerns regarding the impact of the proposed development due to its location on three sides of the appellant's property with loss of rural outlook/visual amenity, reduced privacy, location of open space to rear of the appellant's dwelling, and lack of clarity regarding boundary treatments being the main issues. As noted above the majority of the appeal site including where it adjoins the northern, southern and western boundaries of the appellant's property is zoned RV (Rural Village), which facilitates urban development. The majority of the appeal site including the lands adjoining the appellants' property is within the Rivermeade LAP with the lands adjoining his property identified as catering for residential development areas. The LAP includes a framework plan which shows an indicative layout for development of each area. Despite the proposed layout being

different to the indicative layout the principle for residential development on all sides of the appellant's dwelling is supported by planning policy under the Fingal Development Plan and the Rivermeade Local Area Plan. I would note that the layout proposed also provides a degree of separation between proposed dwellings and the appellant's property with open space areas adjoining the boundaries of the appellant's property. I would consider that the layout as proposed has adequate regard to the amenities of the appellant's property and in accordance with the nature and scale of development envisaged under the Rivermeade LAP. I would consider that the pattern and scale of development relative to the appellant's property would be acceptable in the context of the nature of development envisaged on the lands in question under planning policy.

7.4.2 The appellant has raised concerns regarding clarity on boundary treatment relative to his property and requests that a 3m high stone wall be constructed on the boundaries adjoining the appeal site. The applicants state that the proposed boundary treatment in this area is to be a timber post and rail fence with chainlink (1.3m high) augmented with planting of native species. There is existing hedgerow boundaries defining the appellant's property. I would consider that the proposals are sufficient to protect the amenities of the appellant's property and would accord with the objectives of the LAP to maintain a degree of planting/vegetation on site.

7.4.3 The appellant raised concerns regarding the location of an area of open space to the rear of his property on the basis of potential anti-social behaviour. The layout of the proposal means that all the areas of open space adjoining the appellant's property are overlooked by dwellings. The provision of open space adjoining the appellant's property is to give a degree of separation from the proposed dwellings. The alternative would be the provision of dwellings backing onto the appellant's property, which is unlikely to be a more desirable option for the third party appellant. The issue regarding the percolation area serving the third party appellant's dwelling will be addressed in a later section of this report.

7.4.4 In relation to noise impact I would note that the nature and scale of development is consistent with land use zoning policy and in accordance with the development

earmarked for this location under the Rivermeade LAP. I would consider that noise impact would not be an issue and that the construction impact of the proposal is temporary phase and with an appropriate construction management restrictions would be satisfactory in the context of existing residential amenity.

7.5 Traffic/roads layout:

7.5.1 The third party appellant states that the existing road network in the area is inadequate in width and alignment and requires improvement to serve the proposed development and future developments with concerns regarding traffic safety. The appeal site and Rivermeade is served accessed off Toberburr Road, which in turn forms a junction with Killeek Lane to the south of the site. Both roads are narrow rural roads at present with no footpaths or public lighting.

7.5.2 The applicant submitted a Traffic Impact Assessment (TIA) in support of the proposal. This assessment notes proposed road improvements within both the Fingal Development Plan and the Rivermeade LAP. The Fingal Plan has an objective for a Swords Western Relief Road, which runs to the south east of the site and bisects both Killeek Lane and Toberburr Road. The Rivermeade LAP also includes proposals for upgrades including a north south link road on the eastern side of the Rivermeade housing development to Killeek Lane and upgrades to both Toberburr Road and Killeek Lane to facilitate two vehicular carriageways and a shared footpath/cycle path along one side. The TIA includes details of a traffic analysis with an assessment of existing junctions in the vicinity of the site including, the junction of Rivermeade Drive/Toberburr Road, Toberburr Road/Killeek Lane, Toberburr Road/Toberburr Link Road R122), St, Margarets Bypass/Toberburr Road/North Runway Parallel Road, Killeek Lane /Dunsoghly Cottages and Naul Road/Brackenstown Road/Dunsoghly Cottage. The junction analysis takes into account the proposed development, planned development (other permitted developments) and projected future traffic growth in the area. The assessment concludes that junction capacity will be sufficient to cater for the traffic generated by the proposed development.

7.5.3 It is noted under the Section 14.2 in relation to future improved road network serving the LAP lands and the Section 16.1 Phasing and Implementation that “the Rivermeade Link Road and the upgrade of Killeek Lane shall be facilitated by Fingal County Council in the context of development proceeding within the Plan lands in conjunction with the main landowners within the Plan lands. In this regard no more than 40 of the 81 [$< 50\%$] indicative housing units in areas 2, 3 and 5 shall be sold pending the construction of the Rivermeade Link Road and the upgrade of Killeek Lane. In relation to the Toberburr Road it is noted that the upgrade of such “shall be facilitated by Fingal County Council during the construction of housing in the plan lands. No more than 40 of the 81 [$< 50\%$] indicative housing units in areas 2, 3 and 5 and no more than 81 of the indicative 162 [50%] housing units in areas 9,10 and 11 shall be sold pending the undertaking of adequate improvements along Toberburr Road by Fingal County Council in conjunction with the main landowners in the plan lands.

7.5.4 I would consider that the existing road network is deficient in terms of width and provision of pedestrian infrastructure and public lighting along both Killeek Lane and Toberburr Road. It is important that there is an upgrade of these roads in tandem with development on the LAP lands. It is notable that in the concurrent appeal under ref no. ABP-308142 for 99 dwellings was refused on traffic grounds due to deficiencies in the public road infrastructure and a lack proposal for their upgrade. The proposal was deemed premature pending upgrade of the road network. LAP policy indicates that the Council will upgrade the public roads in tandem with development on the LAP lands and that only a certain proportion of dwellings in each Development Area may be sold prior to such upgrades. I would consider that there is weakness in LAP policy in this regard and a lack of clarity in regards to the provision of upgrading of the public roads. Notwithstanding what LAP policy states regarding upgrading of roads there is a risk of permitting a significant level of housing development at this location without a clear strategy or guarantee that the necessary road upgrades would take place in a timely manner. This is not necessarily the fault of the applicants/first party appellants and is weakness of the LAP. Notwithstanding such I consider that the proposal would be premature pending upgrade of the public road network in the vicinity and there is a lack clarity regarding

how such is to be implemented in tandem with the provision of housing proposed in this application. The proposed development would be premature due to the deficiency in the existing road network serving the area, including considerations of width, capacity and alignments which would render the existing road network unsuitable to carry the increased road traffic likely to result from the proposed development therefore the proposed development would be contrary to the proper planning and sustainable development of the area. This deficiency is also relevant in regards to concerns regarding compliance with the phasing and implementation of the LAP under Section 16.1 and as outlined earlier in this report.

7.6 Flooding/Drainage:

7.6.1 A flood risk assessment was submitted. An area of the site is within Flood Zone A, the area along the Ward River (fluvial flooding). The majority of the site is within Flood Zone C. OPW records do not indicate historical flood incidences. This area is dedicated to open space and is identified for such under the LAP. The location of all proposed dwellings, crèche and commercial development is within flood zone C and at a level, which would not be impacted by flooding. The proposal entails construction of a new pumping station to replace an existing Irish Water Wastewater Treatment Plant. It is proposed to locate such on lands that are Flood Zone C (existing plant is located in Flood Zone A). There is a river crossing proposed through the Flood Zone A lands and an emergency access is provided for at the north western corner of the site off Toberburr Road. I am satisfied the proposal would be acceptable in the context of flood risk and would not exacerbate flood risk elsewhere/downstream from the site. The location of the pumping station was revised in response to further information request to provide a 35m buffer zone from existing dwellings or proposed dwellings.

7.7 First party appeal:

7.7.1 There was also a first party appeal against the application of a number of conditions. The appeal concerns the application of condition no. 12 (a), 12 (d) and 18 (g). Condition 12 (a) requires the existing wastewater treatment plant to be removed and disposed of in agreement with Irish Water. The appellant states that the existing

wastewater treatment plant is under the control of Irish Water and does not fall within the development plans. It is considered that the removal of the treatment plant is a matter for Irish Water. The appellants notes that Section 28 of the Planning Development Act, 2000 (as amended) and the issue of enforceable conditions. The appellants request that this condition be removed. The proposal is to replace the existing wastewater treatment system with a new pumping station further south. I do not consider that this condition is unreasonable as the existing wastewater treatment plant is within the appeal site, the applicants are proposing a new pumping station to replace the existing plant and there is clear need for consultation between the applicants and Irish Water regarding such. I would note that Irish Water raised no objection to the proposal.

7.7.2 Condition no. 12(d) relates to the preservation in-situ or removal of an existing septic tank serving a private dwelling. The appellant notes that it is the percolation area of septic tank serving a private dwelling that is on the appeal site. It is noted that the applicant is not in a position to either preserve it in-situ or remove it and it is unreasonable to attach a condition requiring agreement with a third party. The applicant/appellant is in a position to provide alternative connection arrangements to the owner of the percolation area subject to agreement. The appellant considers that such is not a matter that should preclude granting of permission and is a matter which would be dealt with in due course. This issue was also raised by the third party appellant with a wish to clarify what the details and protections in place in the event that the existing arrangement is retained with the percolation area remaining in-situ and whether an alternative connection to separate infrastructure is made instead.

7.7.3 This issue appears to be an unresolved issue between the first party appellant and the third party appellant. The condition under no. 12(d) is not unreasonable as it presents two options that are possible, however I would question the necessity of the condition. The proposal does not entail the provision any structures in the area where the percolation area is located and such is in an area of open space on the proposed layout. This is matter to be agreed and resolved between both parties with either the percolation area to remain in place with access preserved for the third

appellant and suitable boundary treatment or the connection of the existing dwelling to the sewerage infrastructure at this location. I would consider that a condition is necessary to ensure adequate separation of the existing percolation from the public open space in the event that agreement is not reached for its replacement. I would recommend replacing condition 12(d) with a condition requiring the percolation area to be fenced off from the public open space area and if agreement is reached to remove such this area is to be subsumed into the public open space area.

7.7.4 Condition no. 18(g) provides for restrictions in the timing of deliveries to the proposed retail unit including a delivery window of 07.30-8.00hrs Monday to Friday. The appellant considers that such may be a typographical error and wishes the Board to correct such to a 07:30-20:00hrs. Having examined the condition it does appear that this may have been a typographical error and that the period proposed would for deliveries would be too limited in length and an onerous obligation. I would recommend in the event of a grant of permission that this condition be amended to provide for a longer delivery period for Mondays to Friday (07:30-20:00 hours).

8.0 Appropriate Assessment:

8.1 A Natura Impact Statement Limited was been submitted by the applicant.

8.2. Screening

8.2.1 I followed the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

8.2.2 Project Description and Site Characteristics

8.2.3 The proposed development is as described in the report above and in the application submissions.

8.2.4. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives: Two sites are identified within the zone of influence of the proposed development based on proximity and potential hydrological links. These are the...

Malahide Estuary SAC (Site Code 00205), 5.07km from the site.

Malahide Estuary SPA (Site Code 004025), 5.25km from the site.

| Site Code, Site Name and Designation | Approx. Distance form Site | Conservation Objectives; Qualifying Habitats and Species |
|--------------------------------------|----------------------------|--|
| 00205 Malahide Estuary SAC | 5.07 km form the site. | <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> |

| | | | |
|-----------------------------|------------------------|--|--|
| | | | |
| 004025 Malahide Estuary SPA | 5.25 km from the site. | <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservations Interests for this SPA:</p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p> | |

8.2.5 Assessment of likely Effects:

It is stated that there is no direct impacts on the designated site and no habitat loss or fragmentation. Based on a worst case scenario there is a possibility of effects based on reduction of water quality in the designated sites as a result of indirect

pollution of surface water with the appeal site is located adjacent to and crosses the Ward River, which flows through Swords and joins the Broadmeadow River which discharges into the Malahide Estuary.

8.2.6 Screening Statement and Conclusions:

It was concluded in screening assessment and based on a precautionary approach a Stage 2 Appropriate Assessment is required and that significant effects cannot be ruled out on the Malahide Estuary SAC and Malahide Estuary SPA. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

8.3 Stage 2 Appropriate Assessment

8.3.1 The relevant sites are

Malahide Estuary SAC (Site Code 00205), 5.07km from the site.

Malahide Estuary SPA (Site Code 004025), 5.25km from the site.

Potential direct and indirect effects:

The submitted NIS predicts the following potential effects arising from the proposed development. The appeal site is located adjacent to and crosses the Ward River, which flows through Swords and joins the Broadmeadow River which discharges into the Malahide Estuary. The proposal entails provision of bridge/river crossing for an internal roadway serving the development.

8.3.2 The assessment of potentially significant effects include...

The source-pathway-receptor model identifies the potential for indirect effects relating to surface water and potential effects on hydrologically linked habitats and aquatic species. Potential significant effects (indirect) are possible during the construction phase which includes a river crossing/bridge including release of

sediment and pollutants via surface water runoff due to construction works on site (excavation, movement of vehicles, storage of material on site, storage of chemicals/hydrocarbons, fuelling and maintenance of construction vehicles), use of machinery, storage of materials, pouring of concrete and adverse weather conditions posing risk of increased runoff. Such has the potential to cause indirect effects such as the reduction of water quality and have significant effects on the Annex I habitat(s) and/or the Annex II species identified above.

8.3.3 Cumulative effects may arise in-combination with other plans and projects in the vicinity including residential and commercial development in the vicinity. Permitted residential developments are on zoned lands and benefit from connection to municipal infrastructure in terms of surface water drainage and sewerage. There is a proposal for 99 dwellings in a concurrent appeal under ref no. ABP-308142 on lands to the east. It is not considered that there will be in-combination effects with other plans and projects.

8.3.4 Mitigation Measures

A number of mitigation measures are proposed during construction and operation. These include construction management (an outline construction management plan was submitted) including a construction compound and measures to prevent run-off and accidental discharges with provision of a water and sediment management plan. The existing wastewater treatment plant is to be replaced by a new pumping station that is location in Flood Zone C with the existing plant with Flood Zone A.

8.3.5 It has been demonstrated based on the information in the submitted Natura Impact Statement that with implementation of mitigation measures including construction management and operational measures that the proposed development, individually or in combination with other plans and projects would not adversely affect the Malahide Estuary SAC (Site Code 00205) and the Malahide Estuary SPA (Site Code 004025).

8.4 Appropriate Assessment Conclusions

- 8.4.1 I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Malahide Estuary SAC (Site Code 00205) and the Malahide Estuary SPA (Site Code 004025).
- 8.4.2 A Construction Environmental Management Plan, which incorporates all mitigation measures indicated in the Natura Impact Statement should be agreed between the Council and the relevant statutory authorities prior to the commencement of development.

9.0 Recommendation

- 9.1 I recommend a refusal based on the following reasons...

10.0 Reasons and Considerations

1. The Rivermeade Local Area Plan (LAP) 2018 establishes that Rivermeade has the capacity to accommodate c. 273 additional residential units following assessment of the remaining available residential capacity under the Core Strategy for the identified small towns and villages in the Metropolitan Area. The approved development of 93 residential dwellings represents excessive amount of units over the established development parameters for Development Area 10 and part of 11 in the Rivermeade Local Area Plan 2018. The proposal also fails to have adequate regard to proper phasing and co-ordinated approach to the development of the lands at this location in accordance with the LAP with no measures for the early provision of any of the recreational and community development earmarked for Development Areas 4, 6, 7 and 8 in conjunction with the provision of additional dwellings or a detailed phasing proposal in terms of upgrading of existing public road in the vicinity of the site, which are currently deficient in terms of width and provision of pedestrian facilities and public lighting. To permit the proposed development would be contrary to the policies and objectives of the Rivermeade Local Area Plan 2018 in terms of the level of residential development, the appropriate phasing of development and the delivery of sufficient road infrastructure to serve such. The proposal would give rise

to hap-hazard and uncoordinated development. The proposed development is therefore, contrary to the proper planning and sustainable development of the area.

2. The appeal site is located in a remote location where there is a high dependence on vehicular traffic as opposed to other modes of transport, the existing road network in the vicinity of the site is deficient in width, alignment and the provision of pedestrian facilities and public lighting. Notwithstanding the phasing policy contained in the Rivermeade Local Area Plan (LAP) 2018, there is a high likelihood that the proposed development would be premature due to the deficiency in the existing road network serving the area, including considerations of width, capacity and alignments which would render the existing road network unsuitable to carry the increased road traffic likely to result from the proposed development. The proposal would, therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

22nd December 2020