



An
Bord
Pleanála

Inspector's Report

ABP-308142-20

Development

PHASE 2: 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/0639

Applicant(s)

Rivermeade Properties Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Rivermeade Properties Limited

Observer(s)

(1) DAA
(2) Andrew Collins

(3) Aidan Duggan

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 7.29 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 number of fields in agricultural use a green an area to north of the housing in Rivermeade that contains a wastewater treatment plant and part of the green area within Rlvermeade housing development. Existing development in the vicinity include the existing housing in Rivermeade (two-storey terraced dwellings) to the south the site. There are two existing dwellings to the wets of the site off Toberburr Road including a single-storey dwelling with farm buildings and a dormer style dwelling. The lands to the west are part of the applicants land holding and subject a concurrent appeal under ref no. ABP-308140-20 proposing 99 dwellings, a crèche and a retail unit. Existing boundaries on the appeal site include trees and hedgerows that make up the individual field boundaries.

2.0 Proposed Development

2.1. Permission sought for Phase II of a two phase masterplan for a residential, commercial and community services development. The proposed Phase II will consist of 99 houses 6 x 2 bed) dormer bungalows, 82 x 3 two-storey dwellings and 11 x 4 bed two-storey dwellings, 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.

3.0 Planning Authority Decision

3.1. Decision

Permission 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.

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): Refusal recommended based on the reasons outline above.

3.2.2. Other Technical Reports

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 (05/02/20): No objection subject to conditions.

Conservation Officer (17/02/20): No objection. Alterations to the road network must take into account protected structure, Owens Bridge (ward River crossing at Toberburr Road).

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): Refusal recommended as the issue of road infrastructure to serve the proposed development has not been addressed.

Community Archaeologist (08/05/20): Archaeological monitoring required in the event of a grant of permission.

Water Services (13/05/20): 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.

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

Parks Department (13/08/20): Insufficient public open space and playground provision.

Transportation Planning (no date): Refusal recommended as the issue of road infrastructure to serve the proposed development has not been addressed.

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.

Inland Fisheries Ireland (05/02/20): Ward River is in a significant salmonid catchment (Annex II habitat). There is potential for pollution through groundworks and excavation adjoining the watercourse. A comprehensive surface water management plan is required.

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**

3.4.1 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, inadequate proposals to preserve existing right 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-308140-20: Permission sought for PHASE 1: Construction of a residential, commercial and community services development on a site adjoining the appeal site to the west. This proposal provides for 99 no. dwellings a crèche and retail unit. (93 residential units approved).

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 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'.

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 (VDFFP) 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 (93 approved) units under ABP-308140-20. Taking this development into account the proposal is still significant 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 William Murray & Associates and Armstrong Planning on behalf of the applicants, Rivermeade Properties Limited.

- The appellant outline the background to proposal including previous proposal to submit a SHD application a subsequent proposal for three phases and three applications, which were refused. The current two phase proposal

reduces the number of dwellings and provides for retention of more trees and hedgerow than the previous proposals.

- It is noted that issue regarding road infrastructure were not raise in pre planning discussion that have taken place regarding these lands in terms a potential SHD application and the subsequent planning applications. The policy in the LAP indicates that upgrade of the roads is to be facilitated during construction of any permitted housing development and there is a restriction on the percentage of dwellings that can be sold prior to road upgrades. The decision to refuse is a misreading of the collaborative approach envisaged by LAP policy. It is note no request was made for detailed road proposals and it is the duty of the Council to implement objectives of the LAP.
- The appellant notes that there is no requirement on the applicant to provide details of road improvements with the onus on the Council to facilitate road upgrades. The appellant is willing to work with the Council to facilitate necessary road upgrades.
- The appellant notes that Traffic Impact Assessment was submitted and that there will be proposal advance on other Development Areas (Area 1, 2, 3 and 5 for 11 dwellings). The LAP envisages a separate entrance off Killeek Lane. It is considered that the improvement Toberburr Road can proceed in parallel to construction of dwellings on site.
- It is stated that the Board may consider applying a condition making proceeding with Phase II contingent on the undertaking of adequate upgrade works along Toberburr Road.
- In relation to Reason 2 for refusal it is noted that consideration should be given to Phase 1 and II in conjunction when assessing public open space. The appellant has provided a breakdown of public open space requirement for each phase. It is noted that minimum requirement of 10% of site is area is met for both phases even when assessed separately. It is noted in total that the provision of public open space is 4.1 times the required minimum standard of 10% or site area and 4.7 times the standard of 2,500sqm per 1,000 population.

- The proposal for playground facilities (395sqm facility) was to located them in one area rather than spread them out throughout the scheme. It is considered that the level and quality of playground facilities is adequate to serve the proposed development.

6.2. Planning Authority Response

6.2.1 Response by Fingal County Council.

- Policy states that not more than 50% of the units should be permitted and not sold as stated by the first party appellants in relation upgrade of road infrastructure. Permitting units that cannot be sold or occupied would not be sustainable having regard to the fact the Council has no plans to upgrade the Toberburr Road in the near future.
- It is sated that the issue of need to upgrade the road infrastructure was raised during SHD consultation.
- The issue of upgrade of road infrastructure regarding the previous refusals for residential development at this location and such issues remain unaddressed.
- The open space areas serving the proposed development does not meet the standards for Public Open space set out by Fingal County Council in Table 12.5 o of the County development Plan. Inclusion of open space area adjacent the Ward River (green Corridor) is inappropriate and contrary Development Plan requirements. It is noted that the playground area provided is not within the red line boundary.

6.3. Observations

6.3.1 Observation by the DAA.

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

6.3.2 Observation by Andrew Collins, Mount Ambrose, Swords, Co. Dublin.

- The observer owns lands to the east of the applicant's landholding.

- It stated that yield for Development Areas 9, 10 and 11 of the LAP is 147 with 198 houses proposed in the two phases. This is inconsistent with the LAP and such is based on the core strategy of the Fingal Development Plan. The number of dwellings proposed is inappropriate.
- The proposal is premature pending upgrade of existing road infrastructure and the phasing of the dwellings permitted should have regard to the delivery of such upgrades. It is noted there is enough units permitted under ref no. F19A/0638 (subject to concurrent appeal case ABP-308140). The existing road network is deficient to cater for the level of dwellings proposed with the location of site heavily dependent on vehicular traffic.
- It is noted that the proposal entails removal of trees on the observers property (along the eastern boundary of the appeal site) and no consent has been sought or given for such.
- The boundary treatment for dwellings backing onto the eastern boundary is not consistent with recommendations in Arborist's report or sufficient to protect existing trees and hedgerow along this boundary.
- It is considered that the proposal is not in keeping the LA objective to retain the rural character of the area and is a suburban style proposal with inadequate provision of retention of trees and hedgerows.
- The observers use a right of ways from Toberburr road that traverses the applicant's lands along the Ward River. The proposals for this right of way including a shared surface/footpath reduces the width of such curtailing the observer's access to his land for agricultural purposes with a need to access the lands with heavy machinery.
- The buffer zone for the relocation pumping station extends into the observers lands which is inappropriate. Attenuation proposal may increase risk of pluvial flooding on the observers lands.

6.3.3 Observation by Aidan Duggan, Aidan Duggan, Grass Roots, Toberburr Road, St. Margarets, Co. Dublin, K67 D430.

- The observer has included his original submissions.
- The proposal material contravenes the LAP and is inappropriate in the context of High Court case (Heather Hill Management Company CLG and Gabriel McGoldrick v An Bord Pleanala).
- It is noted the phase 2 is too dense and suburban in character, inadequate in open space and contrary the objectives of the LAP.
- The road network in the area is deficient in width, footpath infrastructure and road markings.

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

Traffic/roads layout

Flooding/Drainage issues

7.2 Compliance with Development Plan/Local Area Plan policy:

7.2.1 The site falls within the Rivermeade Local Area Plan 2018 and is zoned RV and the nature of the land use proposed is a permitted use within this land use objective. The appeal site is made up of Development Area 9 and part of 8 and 11 of the LAP. The proposal is for 99 units with a concurrent proposal for the same applicants for 99 units on a site to the west for 99 units under ABP-308142 (93 units granted by the Planning Authority). 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 proposal is for 99 units that coincide with Development Areas 9 and part of 11. Taken in conjunction with the current appeal relating to ABP-308140, which provides for residential development on Development Area 10 and the remainder of 11, the proposal is for 195 units on Development Areas identified as to facilitate circa 162 dwellings and 8 serviced sites. The previous proposals were refused due providing for a higher level of housing. The part of the site that coincides with a portion of Development Area 8 is earmarked as civic space.

7.2.2 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 along the Toberburr Road and Killek Lane. The nature of the proposed development its location is such that it is likely to be 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.

7.2.3 The appeal site has total area of 7.29 hectares. The proposal is for 99 units with a density of 13.5 units per hectare. As noted above there is guidance under the LAP regarding units numbers to be facilitate with a total of 273 units to be facilitated within the LAP lands. The proposed housing element and concurrent appeal under ABP-308140-20 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-308140) has a density of 21.5 units per hectare (19.5 per hectare taking into account that 93 dwellings were permitted under ABP-308140). The level of dwellings being proposed in these Development Areas is in excess of that identified under the LAP. I would also consider that there is an issue with phasing with Development Area 4 being the recreational hub and not part of the appeal site or the adjoining concurrent application. The applicant has proposed to provide a

sports pitch to the north of the site under ABP308140, however it would be more appropriate for a proper phasing initiative to provide the designated recreational hub in Development Area 4 in tandem with the provision of new housing within the LAP.

7.2.4 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 9 and part of 10 with a concurrent proposal (ABP-308140) on lands on the remainder of Development Area 11 and 10. 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 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 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 in regard to 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 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. The proposal entails the provision two areas of open space, one area to the north consisting of 0.58 hectares and the area to the south, which is part of Development Area 8 and is 0.80 hectares. Development Plan requirements for public open space are the provision of a minimum 2.5 hectares per 1000 population or at least 10% of a development site area. Permission was refused in this case as it was deemed that this standard was not met and that the area to the south within Development Area 8 should not be counted as it is part of a Green Corridor and that such should not be included in consideration of open space serving residential developments under table 12.5 of the Development Plan. The proposal was also refused on the basis of the lack of adequate playground facilities.

7.3.3 Viewed in isolation and not including the open space area to the south on Development Area 8, the proposal provides for 5% of the site area as open space. I do consider that this development cannot be considered in isolation and that it needs to be assessed in the context of the concurrent appeal under ABP-308140 and the whole of the lands within development Areas 9, 10 and 11. The proposal is phase II and ABP-308140 is phase I. Taken in conjunction both proposal provide for 2.22 hectares of public open space for an area dedicated to housing of 9.93 hectares. This excludes open space provided on Development Area 8 and excludes opens space provided on the site to north of Development Area 11 (part of ABP-308140). This level of open space is in excess of Development Plan requirements. The majority of house in both phases overlook areas of open space and have

accessibility to such spaces a short distance from all dwellings. I would consider the assessment of the proposal 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.

7.3.4 The appellant states that one large playground is to be provided (395sqm) on the adjacent the relocated playing pitch that is to the north of the appeal site under Phase 1 (ABP-308140) and it was considered a more appropriate approach than spreading out play areas throughout the scheme. The provision of a playground facility at the furthest point north within Phase 1 is not ideal and such should be provided in a more central location accessible to as many dwellings as possible including existing dwellings in Rivermeade. This issue again illustrates concerns regarding the lack of compliance with LAP policy regarding phasing and implementation.

7.4 Traffic/roads layout:

7.4.1 Permission was refused on the basis that 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 was 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.

7.4.2 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 Kileek 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 /Dunsohly Cottages and Naul Road/Brackenstown Road/Dunsohly 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.

7.4.1 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.

7.4.2 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-308140 for 99 dwellings was granted (93 dwellings permitted) however this phase 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.

7.5 Flooding/Drainage:

7.5.1 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.

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>Glauco-Puccinellietalia maritima</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>

		Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]	
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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 proposed development of 99 residential dwellings represents an excessive amount of units over the established development parameters for Development Area 9 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

21st December 2020