



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308446-20

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<b>Development</b>	Development of 55 residential units and 3 retail units and associated works. An NIS accompanies the application.
<b>Location</b>	Lands to the South of Main Street, Corballis East, Donabate, Co Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20A/0204
<b>Applicant</b>	Aledo Donabate Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Donabate Portrane Community Council
<b>Observer(s)</b>	Cllr. Paul Mulville
<b>Date of Site Inspection</b>	11 <sup>th</sup> May 2021
<b>Inspector</b>	Máire Daly

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## 1.0 Site Location and Description

- 1.1. The subject site comprises a total of 2ha, with a developable area stated at 1.3ha and is located to the south of Donabate town centre in the Fingal area of north County Dublin.
- 1.2. The site has an irregular shape and the northern part of the site includes for the carpark area which serves the Smyth's Bridge House pub and restaurant, which adjoins the site's western boundary and faces onto the L2170 local road/Main Street, which is approximately 200 metres south east of the town centre. Donabate railway station is located approximately 30 metres north of the northern site boundary.
- 1.3. The subject site undulates significantly, rising by approximately 11 metres from the southern part of the site to its highest point which is located adjacent to and west of The Strand housing estate, before once again falling to the north by approximately 9 metres to the junction with the L2170. The southern portion of the site slopes downward with views of Malahide estuary to the south. The site is bound to the west by the Dublin/Belfast railway line, to the northeast by an established housing estate called The Strand, and along part of its eastern boundary by an established treeline and hedgerow. This portion of the site is under grass and scrub vegetation. The south eastern portion of the site forms part of a larger tilled agricultural field, also in the applicant's ownership, which slopes gradually to the south.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
  - Construction of 55 no. residential units including a mix of semi-detached and terraced housing units, apartments and duplexes. A breakdown of the units proposed is provided in the table below:

<b><u>Proposed Residential Units</u></b>	
<b>Houses</b>	
3 bed	5
4 bed	9

<b>Total Houses</b>	14
Ridge Heights of proposed dwellings range between 8.6 metres (House types B1, M and M1) to c.9.78 metres (House types L, L1 and L2)	
<b>Apartments</b>	
<b>Proposed Blocks as follows:</b>	
<b>Block 1 is three storeys (up to 12.4 metres in height), Block 2 is two storeys (c.8.76 metres in height), Block 3 is two storeys (c. 9.15 metres in height) and Block 4 is four storeys (c. 13.5 metres in height).</b>	
2 bed duplex	4
1 bed	14
2 bed	22
3 bed	1
<b>Total Apartments (including duplexes)</b>	<b>41</b>
<b>Total units</b>	<b>55</b>
<b>Proposed Unit Mix</b>	Houses – 25.5% Duplex Units – 7.25% Apartments – 67.25%
<b>Res. Density</b>	42.5 dwelling units per hectare (net site area – developable land 0.1295ha)
<b>Open Space Provision</b>	Proposed 0.16ha
<b>Plot Ratio</b>	0.42
<b>Site Coverage</b>	12%

- 2 Junction upgrades, including 140metres of Main Street proposed as follows:  
At Smyths Public House (Protected Structure) on main street to facilitate

future access to the development and at the Balcarrick Road/Main Street junction.

- It is proposed to provide 98 bike parking spaces to serve the proposed development and 112 no. car parking spaces in total to serve the proposed development and Smyth's Pub.
- 3 no. retail units - 2 no. retail units of 108 sqm each and 1 no retail unit of 45 sqm and reconfiguration of existing car park serving Smyth's Bridge House to accommodate pedestrian, cyclist and limited vehicular access, 44 no. replacement car parking spaces.
- Public open spaces - 1,600 sqm of public open space including a central playground and a pathway linking to the approved cycle/pedestrian bridge over the railway line.
- Internal access roads, water services including a pumping station, surface water attenuation tank and detention basin, public lighting, 1 no. ESB substation and utilities.

2.2. The following documentation was submitted in conjunction with the planning application:

- Planning Report prepared by Declan Brassil and Company Ltd.;
- Design Statement prepared by Conroy Crowe Kelly (CCK);
- Apartment Daylight-Sunlight Assessment Report by Conroy Crowe Kelly;
- Indicative Masterplan prepared by Conroy Crowe Kelly;
- Part V calculations prepared by Aledo Donabate Ltd.;
- Engineering Drawings and Engineering Services Report prepared by O' Connor Sutton Cronin (OCSC);
- Traffic Impact Assessment prepared by O' Connor Sutton Cronin;
- Road Safety Audit prepared by Atkins Ireland;
- Construction and Demolition Waste Management Plan prepared by O' Connor Sutton Cronin;

- Construction and Environmental Management Plan prepared by O' Connor Sutton Cronin;
- Landscape Drawings and Landscape and Visual Impact Assessment prepared by The Big Space;
- Natura Impact Statement prepared by Dr. Patrick Moran of FERS Ltd;
- Winter Bird Assessment, Winter Bat Assessment and Invasive Species Management Plan all prepared by FERs Ltd;
- CGIs and Photomontages prepared by 3D Design Bureau;
- Building Life Cycle Report prepared by Aledo Donabate Ltd.;
- Noise Impact Assessment prepared by AWN Ltd;
- Hydrological and Hydrogeological Impact Assessment prepared by AWN Ltd.;
- Architectural Heritage Impact Assessment prepared by Mullarkey Pedersen Architects;
- Archaeological Impact Assessment prepared by Archer Heritage;
- Letter of consent from Fingal County Council in respect of proposed works to Main Street.

2.3. The application was referred by Fingal county Council to an external environmental consultancy Brady Shipman Martin in relation to the requirement for EIA. In addition a review of the Natura Impact Statement (NIS) was also requested. The following reports were received in return:

- Review for requirement for Environmental Impact Assessment (EIA) report dated 13<sup>th</sup> July 2020.
- Review for requirement for Environmental Impact Assessment report dated 8th September 2020.
- Review of submitted Natura Impact Statement report dated 13<sup>th</sup> July 2020
- Review of response to RFI Item 7 in connection with NIS report dated 11<sup>th</sup> September 2020.

## 2.4. Further Information lodged

2.4.1. Amendments to certain elements of the proposal were made in response to Fingal County Council's request for additional information. Revised plans and architectural drawings were submitted on 25<sup>th</sup> August 2020 which indicated the following amendments:

- Sunlight analysis completed by CCK in relation to Block 1.
- Amendments to Block 1, Block 2 and Block 3 to meet standards regarding private open space and balcony widths. Details shown on drawings CCK Drawing No. 0921 PA2 202A, Drawing No. 0921 PA2 210A and amendments to boundary treatment shown on TBS Drawing No. 1512 302;
- Revised drawings Drawing no.s 0921 PA2 204A and 0921 PA2 400 in relation to Block 1 and 2 prepared by CCK Architects;
- Revised drawings in relation to landscaping TBS Drawing No. 1512 300, TBS Drawing No. 1512 301, TBS Drawing No. 1512 302, TBS Drawing No. 1512 304;
- Revised junction arrangements (Drawing No. C829-OCSC-XX-XX-DR-C-1200-S3 Rev. P04);
- Cycle Street details and specific details including signage, layout, delineation and cycle crossover (Drawing No. C829-OCSC-XX-XX-DR-C1200 S3 Rev. P04);
- Additional Information and Drawings Report submitted by OCSC Consulting Engineers which carried out an assessment of any possible impacts on the protected structure at Smyth's bar and Drawing no. 0921 PA2 402 which shows details of stone capping to boundary wall to side and rear of Smyth's pub;
- Drawing No. C829-OCSC-XX-XX-DR-C-5503-S2-P02 which demonstrates how the proposed surface water drainage system shall be integrated in the overall site and what the proposed future plans are for the removal of the detention basin and foul pump station if the wider Masterplan Corballis East site is to be developed;



- Drawing No. C829-OCSC-XX-XX-DR-C-5503-S2-P04 revised layout of proposed temporary pump station;
- Indicative details in relation to the proposed plaza (TBS Drawing No. 1512 304).

2.4.2. The following additional information in relation to environmental assessments was also submitted:

- Environmental Impact Assessment Screening Report (August 2020) prepared by Declan Brassil & Company Ltd;
- Revised AA Screening and Natura Impact Statement (August 2020) prepared by Fers Ltd.;
- Ecological Impact Assessment (August 2020) and updated Alien Invasive Plan Species Management and Control Plan (August 2020) prepared by FERs Ltd.;
- Surface Water Management Plan (18<sup>th</sup> August 2020) prepared by AWN Consulting (see appendices of NIS).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Fingal County Council issued a decision to grant permission for the development subject to 37 no. conditions which are generally of a standard planning and technical nature. The following conditions are of note:

- Condition no. 2 Permission relates solely to that detailed in the public notices and does not refer to any other aspects of the development which may be indicated in the submitted drawings and plans.
- Condition no. 3 The layout of the development hereby permitted shall be as indicated on Drawing No. 0921 PA2 003 A.
- Condition no.4 Details of civic plaza area including materials and finishes and a method statement and temporary works design to be submitted for written agreement. To address the impact on the adjoining historic buildings.

- Condition no.5 Details of boundary treatment serving ground floor apartment terraces in Block 4 to accord with Detail 12 on Drawing No. 1512 302 submitted as additional information.
- Condition no.6 Construction traffic access and egress from existing entrance at Main Street only.
- Condition no.7 (i) The design of Block 1 shall accord with the plans and elevations received as additional information on 25th August 2020  
(iii) The design of Block 2 shall accord with the plans and elevations received with the original application on 7<sup>th</sup> May 2020.
- Condition no. 8 (i) street plan demonstrating the constructed tree pits of 16 cubic metre in plan and section format. Details of lamp standards and underground services.  
(ii) full details of permitted playground.  
(iii) details of anti-graffiti measures for boundary treatment to public open space.
- Condition no. 11 Surface water drainage layout to accord with drawing no. C829-OCSC-XX-XX-DR-C-5501-S2-P02.
- Condition no. 12. Details of foul pumping station.
- Condition no. 13 pedestrian crossing, junction, road details.
- Condition no. 16 The mitigation measures as contained in the NIS, the updated EclA, Surface Water Management Plan, Invasive Species Survey and Management Plan and Drawing No. 0921 PA2 015 indicating location of construction phase hoarding received as additional information on 25<sup>th</sup> August 2020 shall be implanted in full.
- Condition no. 17 – removal of vegetation on site to be carried out in the months from September to February only i.e. outside the main bird nesting season.
- Condition no. 18 The developer is to pay €71,752 in lieu of 0.12225ha of public open space.
- Condition no. 28 preservation of archaeology.

- Condition no. 33 Part V
- Condition no. 34 Developer to provide a piece of public Art or sculpture or architectural feature located in the plaza area, to be designed in consultation with the Public Art Co-ordinator of FCC. To comply with Objective DMS05.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

##### Initial Report

The initial planner's report (dated 20<sup>th</sup> July 2020) considered that the overall design, mix and residential density proposed was generally acceptable and that the subject site forms a relatively small but important part of the Corballis East lands identified for development in the Donabate Local Area Plan 2016. This application constitutes the initial phase of development. However, additional information was required in relation to a number of issues including:

##### 1. Residential Amenities:

- Issues in relation to overshadowing and overlooking of adjoining terraced dwellings in 'The Strand' Housing estate to the east of Block 1.
- Proposed balcony depths of 1.5 metres required for Blocks 1 and 2.
- Details of boundary treatment between communal open space and car parking area associated with Block 1.
- Access to rear private open space from Block 3, Apartment 20 not available. Applicant requested to address this issue.
- Clarify boundary treatment serving ground floor apartment terraces in Block 4 and to proposed communal open space area.

##### 2. Open Space

- minimum of 10% of proposed development site area required. Proposed public open space below 2000sqm requirement. 400sqm additional requirement should be shown.
- Landscaping details for proposed detention area required.

- Redesign required of Landscape Plan of Civic Space area proximate to Main Street.
- Revised boundary treatment drawing and specifications of proposed playground required.

### 3. Transport and Access

- Reconsider junction arrangements for apartment residents (block 4) exiting carpark onto link road.
- Submit design/traffic calming measures for cycle safety on northern portion of site.
- Applicant advised that the proposed construction access should be from the Donabate distributor road to the south of the site.

### 4. Conservation

- More specific details of proposed civic plaza design required.
- Concerns in relation to the design finishes of Blocks 1 and 2 – revisions required.
- Any protective measures required for the protected structures at Smyths Pub should be detailed and also details of the side and rear boundary wall around the protected structure.

### 5. Surface water/detention basin

- Clarification needed on how surface water proposals will be accommodated in relation to future applications on the overall landholding (larger Corballis East lands).
- Applicant requested to confirm their intentions in relation to the area proposed to accommodate the detention basin and proposed pumping station if both their removals are required on foot of future development on the wider Corballis East area.
- Revised site layout plan showing the foul pumping station relocated to accord with Objective WT12 of the development plan.

### 6. EIA Screening

- Applicant requested to submit an EIA Screening Report.

#### 7. Natura Impact Statement/ Biodiversity and Invasive species

- Additional information required in relation to surface water management and disturbance prevention measures during construction. Revised NIS required.
- EclA referred to in Section 5 of the NIS should be submitted. This should include detailed mitigation measures for the protection of bats and derogation licences obtained from NPWS where required.
- Revise and resubmit the Alien Invasive Plant Species Management and Control Plan to include update field surveys completed in optimal survey period.

#### Second Report

The planning officer in his final report (dated 21<sup>st</sup> September), further, to review of the response to the multiple item request for additional information (detailed above) recommended a grant permission subject to conditions. Conditions of note are listed above in Section 3.1.1 of this report.

#### 3.2.2. **Other Technical Reports**

- Water Services Department - Report dated 07<sup>th</sup> July 2020 - No objection subject to conditions.

Report dated 14<sup>th</sup> September 2020 in response to additional information – no objection subject to conditions.

- Transportation Planning Section – Report dated 30<sup>th</sup> June 2020 –

Additional information was requested regarding the below:

- reconsideration of junction layout at the southern end of the central link road to take account of the two-way segregated cycle path which is also proposed at this location and the potential conflict with vehicular resident traffic exiting the apartment car park.
- Further details required on footpath to west of link road.

- Further details required on the shared area at the convergence of the cycling routes including signage, layout, pedestrian crossing on link road and cyclist crossover onto the road.

On receipt of further information the Transportation Planning Section in a report dated 15<sup>th</sup> September 2020 were generally satisfied with the amendments proposed by the applicant and had no objection to the development subject to conditions, including finer details to be agreed with the Transport Planning Section.

- Environmental Health, Air & Noise Unit – Report dated 26<sup>th</sup> June 2020 - No objection subject to conditions.
- Environment Section (Waste Enforcement & Regulation) – Report dated 25<sup>th</sup> June 2020 - No objection subject to conditions.
- Parks and Green Infrastructure Division – Report dated 25<sup>th</sup> June 2020 – Minimum provision of 10% of site area to be open space, this has not been provided in the current case i.e. 2ha site 0.2ha required, only 0.16ha has been provided. Further information was requested in relation to provision of open space, landscaping details in relation to proposed detention basin area and landscaping details for the proposed Civic Space.

On receipt of further information the Parks and Green Infrastructure Division in their report dated 15<sup>th</sup> September 2020 were generally satisfied and had no objection subject to conditions. The report stated that the public open space requirement of the development is 0.28 ha with a minimum of 10% of site area to be provided on site. A condition was recommended for inclusion for a financial contribution for any shortfall in Public Open Space.

- Conservation Officer Section – Report dated 23<sup>rd</sup> June 2020 – Concerns raised regarding level of car parking to be provided and its impact on the village square area. More specific detail required in relation to the design of the plaza, design amendments required to Block 1 and Block 2. Potential Impacts on Historic Outbuildings – protective measures required during construction and details of new boundary wall to Smyth's pub should be requested. Additional information requested.

On receipt of additional information, the Conservation Officer in her report dated 15<sup>th</sup> September 2020 noted that the initial design for Block 2 was in fact better than that proposed as part of the additional information and states that the design should revert to original and a condition stating same should be attached. The remainder of issues were in general addressed. No objection subject to conditions.

- Archaeological Report – Report dated 22<sup>nd</sup> June 2020 – No objection subject to conditions.
- Community, Culture and Sports Division – No objection.

### 3.3. Prescribed Bodies

3.3.1. The following responses were noted:

- Irish Water – response received dated 08<sup>th</sup> July 2020 - no objection subject to conditions.

Response received dated 15<sup>th</sup> September 2020 in response to additional information received - No objection subject to conditions. In the case of wastewater, it was noted that the assessment did not confirm that a gravity connection is achievable. Therefore, a suitably sized pumping station may be required. Location of any temporary foul pumping station shall be in accordance with the Irish water Code of Practice for Pump Stations and Objective WT12 of the development plan which requires a 35-50 metres minimum buffer zone.

- Department of Culture, Heritage and Gaeltacht – Nature Conservation - response received dated 29<sup>th</sup> June 2020 – No objection subject to conditions which include for
  - the mitigation measures in relation to water quality during construction and operation phases as per the NIS, Hydrological and Hydrological Risk Assessment and the Engineering Services Report to be implemented.
  - Removal of vegetation to occur outside of bird nesting season.

- Requirement to submit an Alien Invasive Plant Species and Control Plan including results of summer plant surveys and eradication of any invasive species, to the planning authority for agreement.
  - Requirement for a bat survey of the site during the summer period and any necessary derogation licences to be obtained from the NPWS prior to development commencing.
- Department of Culture, Heritage and Gaeltacht – Archaeology - response dated 4<sup>th</sup> June 2020 – no objection subject to archaeological monitoring.

3.3.2. The Board should note that a response from Iarnrod Eireann (dated 26<sup>th</sup> June 2020) was received by FCC on 03<sup>rd</sup> July 2020 but the comments therein were not considered in the planner's report. The following is a summary of the main issues raised:

- Consent required from CIE/Irish Rail in relation to development of the railway bridge approach roads and the embankments to the railway bridge.
- Block 2 is too close to the steep railway cutting and should be relocated to eliminate all risk of slope failure. The current proposed location of Block 2 does not provide adequate space to the railway boundary to allow future maintenance of the property.
- A 2.4 metre high solid block boundary treatment should be erected by the applicant on the applicant's side of the boundary.
- No building shall be constructed within 4m of the Boundary Treatment on the applicants' side.

#### 3.4. **Third Party Observations**

One third party submission was received on 29<sup>th</sup> June 2020 from the Donabate Portrane Community Council. The issues raised in this submission are also covered in the grounds of appeal and are outlined in detail in Section 6.1 below.



## 4.0 Planning History

### **Current site and larger area outside of current site to east and south**

- ABP Ref. 304904-19 – Permission was refused in January 2020 to the current applicant (Aledo Donabate Ltd) for development of strategic open spaces, upgrades to the public road, reconfiguration of the car park serving Smyths Bridge House (A Protected Structure), upgrade of existing entrance onto Main Street, new access from Balcarrick Road, internal access roads, water services and a pumping station, and utilities. Planning permission is sought for 10 years.

The reason for refusal related to previous recorded observations of significant numbers of wintering birds utilising the subject lands as an ex-situ feeding site including species which are qualifying interests for the Malahide Estuary SPA (Site Code: 004025) and Rogerstown Estuary SPA (Site Code 004015), in particular the Light-Bellied Brent Geese, the lack of analysis and data available in relation to same on the site and the extended duration of construction activity involved in the provision of the Nature Park. The Board therefore stated that they *“cannot determine the significance of the potential disturbance and displacement impacts of construction activity within the proposed Nature Park on such species with sufficient certainty and accordingly, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites in view of the sites’ conservation objectives”*.

### **Site to Immediate East – current developer also (Aledo Donabate Ltd.)**

- ABP Ref. 307633 - 21 – Strategic Housing Development for 1368 no. residential units (353 no. houses, 1015 no. apartments), 3 no. childcare facilities and associated site works – determined to be a reasonable application basis for SHD purposes on 04<sup>th</sup> November 2020.

### **Sites to West of Railway Line**

- ABP Ref. 304289-19 - Permission was refused in August 2019 for Strategic housing application seeking permission for amendments to the residential

development permitted under Reg. Ref: F17A/0113, to replace 35 no. houses and 62 no. apartments with 174 no. apartments and associated site works. (The associated consultation case ref. is ABP-303228-18). Refusal reason as follows “.....*The proposed development, by reason of its blanket approach to height, campus style building layout, dominance of carparking and lack of legibility/wayfinding between the proposed bridge and Newbridge Demesne, does not represent a satisfactory urban design response for the site, and does not enhance the character of the area or adequately recognise the cultural context and special setting of Newbridge Demesne. Furthermore, the proposed development would not be in accordance with the Design Manual for Urban Roads and Streets. As such the proposed development would be contrary to Ministerial guidelines, would not be consistent with national and local policy*”.

- PA Ref. F17A/0113 - Permission granted in 2018 for the construction of 196 houses, 62 apartments and a creche, on lands at Hearse Road, on the western side of the railway. The development also included 1.075ha of the proposed Nature Park, immediately adjoining the railway line, as part of its public open space obligation. This development is currently under construction.
  - Condition 6: Phasing plan to be agreed to include the provision of a new pedestrian and cycle bridge over the railway line prior to final sale and occupation of houses.
  - Condition. 13: Timeframe for transfer of the lands within the proposed nature park to the local authority to be agreed.

Note: the pedestrian bridge referenced in condition no. 6, links into the site of the subject appeal, to the south of the Smyth’s Bridge House site.

#### **Site to northeast of appeal site**

- PA Ref. F17A/0373 and ABP Ref. PL06F.249206 - Permission granted on appeal in April 2019 for a development of 151 no. residential units and 1 no. creche on lands on the northern side of New Road / Balcarrick Road, to the northeast of the appeal site. These lands are served by the Donabate Distributor Road.

## **Donabate Distributor Road – to south of proposed site**

- ABP Ref. PL06F.KA0018 PL06F.HA0031 - Permission granted in 2011 for construction of the Donabate Distributor Road. This approx. 4km road runs from the R126 at Portrane Road on the north-eastern side of Donabate, to Hearse Road on its southwestern side. This road is substantially complete.

## **5.0 Policy Context**

### **5.1. National Policy and Guidance**

#### **Project Ireland 2040 - National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life.
- 5.1.2. National Policy Objective (NPO) 11 – states that there *'will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'*.
- 5.1.3. NPO 13 - provides that *"In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected"*.
- 5.1.4. NPO 27 - is to prioritise walking and cycling accessibility to existing and proposed development.
- 5.1.5. NPO 32 – To target the delivery of 550,000 additional households to 2040.
- 5.1.6. NPO 33 - seeks to *"prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location"*.
- 5.1.7. NPO 35 – Increase Residential density and settlements, through a range of measures including reductions and vacancy, reuse of existing buildings, infill

development schemes, area or site based regeneration and increased building heights.

### **Section 28 Ministerial Guidelines**

5.1.8. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) (DoH&LG 2009)
- ‘Design Manual for Urban Roads and Streets’ (DMURS 2013)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (DoE,H&LG 2009)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (DoEHLG Dec 2020)
- ‘Quality Housing for Sustainable Communities’ Best Practice Guidelines (DoEHLG 2007)
- ‘Urban Development and Building Heights’ Guidelines for Planning Authorities (DHPLG 2018)
- ‘Retail Planning Guidelines’ for Planning Authorities (DoECLG 2012)
- Appropriate Assessment of Plans and Projects In Ireland, Guidelines for Planning Authorities (DoE,H&LG 2009)

### **Eastern and Midland Region Spatial and Economic Strategy (RSES)**

5.1.9. Fingal is identified in the RSES within the Dublin Region and partly within the MASP area, the area outside the MASP boundary is in the Core Region. The appeal site is located within the Metropolitan Area as defined by the RSES.

5.1.10. Donabate is designated as a self-sustaining town within the Variation no. 2 of the Fingal County Development Plan. The RSES identifies that Self-Sustaining Towns are towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery.

**Quantitative methods for daylight assessment are detailed in the following documents:**

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011): and
- BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting' (2008) which has been replaced by British Standard (BS EN 17037:2018 'Daylight in buildings') in May 2019 (in the UK).

**5.2. Fingal County Development Plan 2017-2023**

**Core Strategy and Settlement Strategy**

- 5.2.1. Donabate is identified as a Moderate Sustainable Growth Town within the Metropolitan area, which has an identified residential capacity for 4,056 units on 116ha. The County Development Plan notes that Donabate has experienced population growth in recent years and is served by high-capacity public transport links to Dublin city. Donabate is envisaged as performing a strong role for continuing future growth as a well-served commuter location.
- 5.2.2. **Section 4.2** of the Development Plan states that while Donabate has experienced substantial housing development in recent years, there remains extensive areas of undeveloped residential zoned lands. With regard to new residential zoning, the emphasis in this Plan is to continue to consolidate the existing zoned lands and to maximise the efficient use of existing and proposed infrastructure. In this way the Council can ensure an integrated land use and transport strategy in line with national and regional policy.

**Zoning**

- 5.2.3. The northern portion of the subject site which fronts onto Main Street accommodates an informal carparking area serving Smyths Bridge House and is zoned 'TC' Town Centre with the objective to '*Protect and enhance the special physical and social character of the town and district centres and provide and/or improve urban facilities*'. The remainder of the site is zoned Objective 'RA' Residential Area with an objective to '*provide for new residential communities subject to the provision of the necessary social and physical infrastructure*'.

- 5.2.4. Lands are also designated under LAP 7.A – which means the area is subject to Local Area Plan.
- 5.2.5. Lands also subject to Map Based Local Objective no.40 (Appendix 6 Map Based Local Objectives) which states ‘Ensure that the layout, design and scale of future development on these lands shall have *regard to its prominent location, as well as the visibility of these lands from the south. In addition the layout, scale, design and density of development should respect the transitional nature of the sensitive southern boundary area*’.
- 5.2.6. The following objectives and sections are relevant:

**Objective SS17:** Manage the development and growth of Malahide and Donabate in a planned manner linked to the capacity of local infrastructure to support new development and taking account of the ecological sensitivity of qualifying features of nearby European Sites.

Specific objectives for the town are set out in Chapter 4 of the development and include:

- Objective DONABATE 1: Prioritise the early construction of a Donabate distributor road, delivering a new railway crossing, providing alternative access to Donabate.....
- Objective DONABATE 2: Channel and concentrate the development of additional commercial, social, community and civic facilities within the town centre and promote high quality urban design in such development.
- Objective DONABATE 3: Provide for the further development of recreational, community and educational (primary and second level) facilities.
- Objective DONABATE 5: Provide for a comprehensive network of pedestrian and cycle ways linking residential areas to one another, to the town centre, schools, the recreational campus at Ballymastone and the railway station.
- Objective DONABATE 10: Prepare and/or implement a Local Area Plan for Donabate providing for the structured development of the identified new residential areas such that they integrate into the established village and support the continued growth of a vibrant and attractive town for existing and future residents.

The plan notes that phase 2 of the delivery of public Metropolitan Area Networks (MANs) includes the town of Donabate.

5.2.7. Specific objectives in relation to residential development are contained in Chapter 12, in particular under **Sections 12.3 and 12.4** including development management standards for urban and new residential developments. The following objectives are of relevance:

- Objective DMS01 – Screening for Appropriate Assessment.
- Objective DMS03 – requirement for urban design statement for developments in excess of 5 no. dwellings.
- Objective DMS24 – residential units minimum standards
- Objectives DMS28 and DMS29 – separation distances between dwellings
- Objective DMS87 – private open space
- Objectives DMS57A, DMS57B and DNS59 – public open space.
- Objective DMS75 - Playground facilities for all residential schemes in excess of 50 units.

5.2.8. **Section 12.11** Archaeological and Architectural Heritage – one protected structure is of note RPS No.0509: Smyth’s Bridge House which adjoins the site to the west.

### 5.3. **Donabate Local Area Plan 2016-2022**

5.3.1. Strategic aims of the LAP include:

- Provide a framework for a growing population with phased development of new housing in tandem with supporting community and physical infrastructure.
- Provide infrastructural investment to address traffic, pedestrian safety and movement challenges including the early delivery of a new road & bridge providing an alternative access to Donabate and Portrane.

5.3.2. The subject lands at Corballis East comprise part of one of four residentially zoned (RA) development areas in the LAP which in total have the capacity to provide approximately 3,935 units. Generally, it is anticipated that an overall density of residential development of approximately 35 dwellings per hectare will be targeted in the LAP land.

- 5.3.3. **Section 3.5.3** sets out design principles for roads and streets within the LAP area. The use of shared surfaces is encouraged particularly relating to the area adjacent to Smyth's Bridge House.
- 5.3.4. **Section 4.3.1** provides guidance for the Civic/Public Space for the proposed small local centre at Corballis. This states that it should be arranged around a civic space / square, overlooked by local shops, school and services. The square will incorporate flexible spaces for local events and small markets with zones for outdoor café seating. Details of same are to be agreed through the Development Management process.
- 5.3.5. **Section 6** identifies the requirement for primary school, childcare and neighbourhood centre facilities within the Corballis East Lands.
- 5.3.6. **Section 8 - Urban Design Framework**, sets out specific provisions for the development of the lands. The LAP lands at Corballis have the potential to provide approximately 1,850 units based on a density of 35 units per hectare. Family homes will be the primary housing form, whilst apartments and other multi-occupancy units will be encouraged closest to the Village and at other appropriate locations. Residential development of a higher density will be provided closest to public transport (bus / rail) and the Village core. A planned extension to the Village is envisaged adjacent to Smyth's Bridge House, to accommodate additional retail, local services and live-work / incubation units.
- 5.3.7. No buildings shall be built above the 20m contour line and the maximum ridge / roof heights shall be limited to 26m OD, below the ridge height of the existing houses at 'The Strand'.
- 5.3.8. **Objective 8.8** requires that a strategic landscape corridor / linear be provided in this area along the boundary with The Strand, in advance of any development.
- 5.3.9. Detailed Visual Impact Assessments and Landscape Character Analysis will be required as part of any application for development on these lands.
- 5.3.10. The railway edge treatment must be carefully considered to allow for any future widening of the rail corridor.
- 5.3.11. **Section 8.3** notes that building heights on these lands will be generally 2-storey with potential for some higher buildings close to the village centre.



- 5.3.12. **Section 9.1** considers the sequencing of development in Donabate. The Corballis lands west of the railway and a small area south of the Village at Smyths Pub are targeted as part of Phase 1, as this area can be effectively integrated into the established village and community. Phase 1 includes for the subject site lands at / to the south of Smyth's Bridge House for mixed use commercial and residential development (c.50 dwelling units) to be accessed from the Main Street. This area is envisaged as a 'Transitional Zone' with a mix of residential and commercial development. Vehicular access will be limited and restricted to serving the small area of residential development at this location only, with no through-route. The severance created by the railway line will be addressed through the provision of a new pedestrian / cycle bridge (which is now permitted) over the railway line to link Main Street to Corballis and into Newbridge Demesne via an alignment through lands to the rear (south) of Smyths Pub.
- 5.3.13. The remaining Corballis LAP lands east of the railway line will be accessed from the Donabate Distributor Road (DDR) in Phases 2 and 3.
- 5.3.14. Phase 2 includes 300 no. units in Corballis East, where they integrate with the established village and existing community. This phase will be underpinned by the construction and operation of the DDR. Prior to the occupation of any units in Phase 2:
- The road distributor shall be fully operational (Hearse Road – Balcarrick Road).
  - Ownership of the Corballis Nature Park shall be transferred to Fingal Co. Co.
  - Landscape screening in the form of a Strategic Landscape Mitigation Area shall be in place in the area south of 'The Strand' estate to better integrate the new development lands into the existing ridgeline of the Corballis hillside area.
- 5.3.15. Phase 3 includes 1,000 units in Corballis East. This final phase will be predicated on the operation of the Donabate Distributor Road infrastructure and the geographical growth of the settlement. It is envisaged that Phase 2 and 3 will run consecutively, with a relatively short timeframe between these phases of construction. A small neighbourhood centre with a landscaped civic space and provision of a school site

(minimum 16 classroom primary school) will be required prior to the commencement of house no. 301 within Corballis East (Phase 3).

#### **5.4. Natural Heritage Designations**

5.4.1. The closest sites of conservation interest are

- Malahide Estuary SAC and NHA (00205) and SPA (004025).
- Rogerstown Estuary SAC and NHA (00208) and SPA (004015).

5.4.2. There are several other sites within approx. 15km of the site, identified in Section 9.0 of this report - Appropriate Assessment.

#### **5.5. EIA Screening Determination**

5.5.1. Please see Section 7.12 in my assessment and the Screening Determination attached to my report in relation to this issue.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

6.1.1. A third party appeal was received from Charlie Weston (Chairman) on behalf of Donabate Portrane Community Council (DPCC) which makes the following points against the decision to grant permission in this case:

##### **Failure to undertake Environmental Impact Assessment/Project Splitting**

- The initial application on site (P.A. Ref. F18A/0618) was accompanied by a Masterplan for the entire development, which clearly showed the current application for 55 housing units. The developer's submission to the Board also made reference to the fact that it would be making an application for these 55 units as soon as permission for infrastructure on the whole site was granted.
- Serious concerns in relation to how the earlier application (P.A. Ref. F18A/0618) was crafted in order to minimise and evade full environmental scrutiny, by failing to actually consider the larger proposed project i.e. construction of a housing estate, and instead only considered the

environmental impacts of the infrastructure to enable the proposed development to be constructed.

- The former application on site was a clear attempt to seek to engage in project splitting in an attempt to evade proper environmental scrutiny.
- The current appeal site is part of a much larger site owned by one developer, on which it is proposed to build a larger housing estate as indicated on the masterplan. As the current proposal is one part of the larger development, project splitting is evident.
- The developer has simply stripped out the parts of the site which caused previous offence under P.A. Ref. F18A/0618 (i.e. proposed nature park which had AA issues) and simply applied instead for a portion of the site.
- In relation to project splitting reference is made to previous judgements of the Court of Justice of the European Union. In particular the project bears a strong resemblance to the infamous Madrid Ring Road case (Case C-142/07).
- The review which was completed by Brady Shipman Martin was flawed in that it only considered the current development under appeal (55 houses, 3 retail units and associated works) and not the actual entire site as is required under EU law.
- The planning authority's assessment and the conclusion that the project does not represent project splitting is incorrect and An Bord Pleanála has no option but to refuse permission for this fatally flawed development.

### **Appropriate Assessment (AA) Screening Report and Natura Impact Statement (NIS)**

- The Screening Report and NIS are incomplete and do not form the basis for a decision.
- The report only considers the small portion of lands in question. Similar to its failings from an EIA perspective, the assessment again fails to consider or assess the effects of any other plans or projects in the area, including future residential development, the Donabate Distributor Road or adjoining residential development.

- Reference is made to the previous submission in relation to wildlife made by the Donabate Portrane Community Council under P.A. Ref. F18A/0618 which should be referred to as they concern the same site.
- The AA Screening Report and NIS submitted in response to the additional information request in August 2020 only considered the small portion of lands which constitutes the subject matter of the current application.

### **Infrastructural Deficits**

- There is no capacity on commuter rail services to Donabate and current bus services are limited, and no regard is being had to the impacts of concentrating higher density developments within 1km of railway stations which result in further pressure on peak times.
- There is no scope for additional rail capacity for at least three years, while other planned transport infrastructure projects will not be completed in the short-medium term. In any event the proposed growth in population in the interim will undoubtedly consume whatever capacity may be provided.
- Significant development along rail corridors is being permitted with no regard to passenger capacity.
- There are limitations in the electricity supply network which are likely to impact on the proposed extension of DART north of Malahide, with necessary remedial works to take an estimated 5 years to deliver. Any new homes proposed in the area will place an additional demand on the supply network and impact on existing residents.
- In response to the severity of the situation confronting the community an online petition calling for Government to take immediate steps to address the serious congestion and overcrowding at peak times on the Dublin – Drogheda line has been published.
- Further development in the area will place even more pressure on already problematic mobile telephone and broadband services.

### **Construction Site Access**

- Should the construction site access road be permitted off Main Street at Smyth's Pub it will have a severely detrimental impact on the community from both traffic and pedestrian/cyclist safety perspectives. No alternatives have

been presented and the applicant's argument as to why a 675m construction services road cannot be provided is not satisfactory.

### **Integration of Historic Buildings and Outbuildings**

- The mass and elevation of Block One will have a negative visual impact on the historical aspect of public realm. It is not in keeping with the village design requirements under the Donabate Local Area Plan.
- The developer has not considered the integration of Smyth's Pub and the historic outbuildings (all protected structures) which would enhance the public realm in this area of Donabate. This space offers fantastic opportunity to develop an important social, tourist and economic hub.

### **Donabate Local Area Plan 2016**

- Having carparking and a road through public realm linkages constitutes poor planning. The civic space provided is dismal.
- All traffic serving the retail units should be from the DDR only and not the Main Street.
- The proposed entrance off Main Street is located at a particularly busy area and its location is irresponsible and dangerous given the possible traffic impacts.
- Fingal County Council have failed to implement DMURS as per the Objective 3.5 of the LAP.
- A traffic management plan should be carried out, for the proposed Urban Framework Plan to inform the future development of sites such as the current appeal site.

### **Covid 19 and Civic/Public Open Space**

- Covid 19 has highlighted the importance of good quality outdoor public space. This development is short of public open space and the local authority accepting cash in lieu for the failure of the applicant to provide the minimum 10% required is not acceptable and conflicts with Objectives 6.6 of the Donabate LAP.
- The proposed civic space does not serve the function it is intended for and does not conform to the details envisaged under Section 4 of the Donabate

LAP. The space is not flexible and is not a usable space for local events and small markets and has no zones for outdoor café seating.

## 6.2. Applicant Response

6.2.1. A response from Declan Brassil + Company on behalf of the First Party, dated 17th November 2020, was received by the Board. The response can be summarised as follows:

### Requirement for EIA

- The proposed development is a standalone development, capable of implementation on its own and is not dependant on any further permissions on adjoining lands.
- The current application for 55 residential units is significantly below the threshold of 500 units for mandatory EIA as set out in Class 10 (b)(i) of the Planning and Development Regulations 2001 (as amended). The extent of the application site at 2ha is also significantly below the 10 ha threshold for urban development as set out in Class 10 (b)(iv).
- The cumulative impact of existing or approved projects only have to be considered under the EIA Directive and there are no current, existing or approved applications or permissions on any part of the developer's landholding.
- The Masterplan which accompanied the application is intended for information purposes only and to demonstrate that the proposed development will not prejudice the future development of the wider landholding.
- Future development of the applicant's lands will be subject to a separate planning application and EIA of same will be undertaken if necessary.
- A comprehensive EIA Screening Report was submitted as additional information and concluded that no sub-threshold EIA was required. The area planner confirmed same in his assessment and noted that potential cumulative effects with this potential development need not be assessed under this application.

- The approach is consistent with relevant EIA legislation and Guidelines as clarified in recent Supreme Court and ECJ Judgements. In *Fitzpatrick v. An Bord Pleanála* 2019 and the opinion of the Advocate General in *Bund Naturschutz Bayern and Ors. V. Freistaat Bayern* (Case 396/92) and similar to those cases, the development to be screened for EIA here is the current development and not the larger 'Masterplan' of which this development is the first phase.

### **Appropriate Assessment and NIS**

- The appellant refers repeatedly to ABP previous decision to refuse permission for the infrastructure application for the applicant's wider landholding (ABP-304904-19) whereas the subject application relates to a discreet 2ha area of the larger 43.6 ha landholding, at the furthest remove on the landholding from the Natura 2000 sites and immediately adjacent to the established urban envelope of Donabate.
- Contrary to the appellant's assertions, the NIS which accompanied the application was informed by extensive bird surveys undertaken at the subject site and also on the applicant's wider landholding.
- Where further clarification was sought this was with regard to surface water protection and a revised NIS was submitted to address these issues as part of the additional information to the planning authority. This report concluded that subject to mitigation measures no adverse impact on the site integrity of any relevant Natura 2000 sites would occur.
- A comprehensive survey and assessment was submitted in the Ecological Impact Assessment (EclA) which considered the habitats and species (not considered in the AA Screening Report or NIS) also present on site.

### **Infrastructure Capacity**

- A comprehensive response to the applicant's concerns has been prepared by O' Connor Sutton Cronin, Consulting Engineers and submitted. In summary the response concludes that given the small scale of the proposed development any impacts on existing infrastructure will be negligible.

- The proposed development will provide a positive new cycle link to Donabate Town Centre.
- A Technical Memorandum has been included in the response which further addresses the appellants concerns in relation to Infrastructural Deficits.

### **Construction Site Access**

- Justification for the proposed access has been provided, which in summary states that providing a 675m haul route access across agricultural fields with a significant vertical gradient is not justified when an existing entrance is in place off Main Street.

### **Integration of Historic Buildings**

- The protected structures at Smyths Public House, including the outbuildings to the east of the site are outside of the site boundary. The proposed development formalises the established car parking area by providing 44 spaces to serve the pub. This level of provision forms part of the deed of sale and therefore must be incorporated into the proposed development.
- The proposed design and landscaping allow for access to the outbuildings so that these could become an integral part of the space in the future.
- The use of stone finish on the base of Blocks 1 and 2 responds to the existing vernacular buildings.
- The Civic/Public Space referred to in the LAP relates to a future square to be delivered on the wider Corballis East lands adjacent to the school site and does not refer to the current site as implied by the appellants.
- The LAP expressly provides for access from Main Street for the type of development as proposed.
- In response to a request for additional information the proposed access road has been designed as a 'Cycle Street' for the full extent of the access road.
- The proposed development includes for junction upgrade works as required under the Donabate LAP, which will serve to improve junction design, sightlines and pedestrian facilities.



- It is submitted that this proposal with access from Main Street was considered acceptable under the previous application on site ABP Ref. 304904-19.

### **Quantum of Open Space**

- It is submitted that it is reasonable to exclude the parts of the development site which include the public road upgrade areas, the area associated with the detention basin and the pumping station from the calculation of the residential development site for the purposes of calculating open space requirements.
- CCK Drawing no. 0921 PA2 008 A illustrates the area which can be attributed to residential development at 1.464ha. The total open space proposed is 0.160ha which equates to 10.9% of the site and therefore is fully compliant with Objectives DMS57A/DMS57B for the minimum 10% of site area to be provided.
- The shortfall in open space highlighted in the planner's report refers to additional open space required above the 10% minimum as outlined in Objective DMS57. 0.28125 ha of open space is to be provided on the proposed development site in line with this objective, as 0.16ha has been provided then a shortfall of 0.12125ha occurs which shall be addressed by way of financial contribution.
- The primary focus of the Urban Framework Plan, which is a non-statutory document, is to 'manage and influence town centre improvement' rather than inform new development. Therefore, the proposed development should not be delayed awaiting the finalisation of this plan.

### **6.3. Planning Authority Response**

6.3.1. A response to the 3<sup>rd</sup> party appeal from Fingal County Council dated 16<sup>th</sup> November 2020 was received by the Board. The response can be summarised as follows:

- The proposal constitutes phase one of development of the Corballis East lands as identified in the Donabate LAP 2016 – 2022.
- Many of the points of objection raised by the third-party appellant have been addressed in the planner's report.

- The applicant submitted a range of additional information following the planning authority's request, including an EIA Screening Report, information relating to Appropriate Assessment, the NIS, an updated Ecological Impact Assessment and Alien Invasive Plant Species Management and Control Plan.
- Have fully assessed the planning application including the submitted additional information, the planning authority concluded that the proposal would not give rise to significant likely effects on the environment and the proposed development does not require sub-threshold EIA and subject to conditions, the proposal would not detract from the amenity of the surrounding area.
- The proposal accords with both the Fingal Development Plan 2017 - 2023 and the Donabate LAP 2016 - 2022.
- The Board are requested to uphold the decision of the planning authority.

6.3.2. A further response was received by the Board from Fingal County Council dated 10th December 2020. This response was received following an assessment by the planning authority of the first party's response to the appeal. The Planning Authority had no further comments to make at that time.

#### 6.4. **Observations**

6.4.1. One observation was received from Cllr. Paul Mulville, which detailed his support for the matters raised in the appeal submitted by Donabate Portrane Community Council. He strongly urges that the appeal is upheld in the interest of the proper planning and sustainable development of the area, as set out in the local area plan for lands at Donabate 2016.

#### 6.5. **Further Responses**

6.5.1. A Further Response (dated 16<sup>th</sup> December 2020) was received from the appellant, Donabate Portrane Community Council, in response to the Applicant's response and can be summarised as follows:

- Reiterates previous points in relation to project splitting.

- Highlights that the 'Masterplan' includes for the entire site in the ownership of the Developer, who has the intention of developing the lands as one housing estate and not as a series of standalone developments.
- The entire Masterplan site, including the portion of the site which forms the subject appeal site, was the subject matter of a preliminary application under the SHD Scheme Ref. 307663-210\*.
- In both legal cases 'Fitzpatrick' and 'Bund Naturschutz' referred to by the applicant, the projects relevant to these cases were subject to EIA, this is not the case in the current application.
- The application for planning permission in respect of the current appeal site required EIA and the incoming SHD application to ABP will equally require an EIA.
- Issues in relation to project splitting and the NIS remain and have not been addressed. The applicant has merely sought to remove the offending portion of land which was subject to a refusal by the Board under 304904-19.
- The cumulative effects of developing smaller housing developments is the cause of issues with infrastructural capacity on the peninsula. This has not been acknowledged by the developer.
- Major capacity issues still remain for rail and bus services, which show no sign of abatement in the near future.
- The position taken by DPCC on the construction site access has not changed. The proposal contravenes the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, May 2009 which requires that for 'Home Zones' where shared vehicle/ pedestrian surfaces are provided these can serve up to 25 dwellings where there is one point of access and up to 50 dwellings where there are two access points. Only one point of access is provided under the current proposal of 55 dwelling units.
- Significant footfall is anticipated from the new pedestrian/cyclist bridge over the railway line which will only be further exacerbated by the developer's SHD scheme application (Ref. 307663-210\*). The Main Street entrance should

serve pedestrians and cyclists only and a viable access route to the rear of the development should be prioritised.

- The developer's arguments regarding site gradient and the unfeasibility of developing an access road to the rear at the Donabate Distributor Road are not justified.
- Six existing businesses in the immediate area of the proposed entrance are experiencing unaddressed safety issues with traffic management and parking.
- The proposed private parking should not divide the public realm as it does by present design.
- Block One should be reduced from three storeys to two storeys to integrate more appropriately into the historic environment.
- DPCC question the reliance on financial contributions to meet open space requirements and raise issue of serious lack of open space within most developments within Donabate.

\*Typo noted – ABP Ref. 307633 is in fact the correct reference number.

## 7.0 **Assessment**

- 7.1. As indicated the appeal refers to the proposed development submitted to the Planning Authority on the 07<sup>th</sup> day of May 2020, and by way of design and layout amendments submitted as additional information on the 25<sup>th</sup> day of August 2020. The following assessment focuses on the revised proposals with reference to the original scheme where appropriate. The main issues in this 3<sup>rd</sup> party appeal relate to perceived Infrastructural Deficits, Construction Site Access and Traffic, Impact on the Historical Environment, the provision of Public Open Space, assessment under LAP policy/objectives and the required environmental assessments under both the EIA Directive and Habitats Directive. In addition, separate from the issues raised in the appeal, a new issue in relation to the Railway Line and Railway Bridge has also been identified.
- 7.2. With regard to the residential element of the development I am satisfied that the required standards have been met under the relevant Section 28 Guidelines including the 'Sustainable Urban Housing: Design Standards for New Apartments,

Guidelines for Planning Authorities’ (DoEHLG Dec 2020) and ‘Quality Housing for Sustainable Communities’ Best Practice Guidelines (DoEHLG 2007), as well as the relevant policies listed under the Fingal County Development Plan 2017-2023. A summary of this assessment is contained in Section 7.4 below. I also note the minor amendments requested by the planning authority with regard to private open space/balcony space for several of the apartments/relevant duplex units in Block 1, 2 and 3. In addition, though not raised as part of the appeal, given the prominent location of the subject site on elevated lands within the LAP area, I thought it prudent to also examine any possible impacts in relation to visual impacts. I am satisfied that no other substantial planning issues arise. Therefore, having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, the main issues can be dealt with under the following headings:

- Principle of the Proposed Development - Development Plan/Local Area Plan Policy
- Design, Development Standards and Visual Impact
- Infrastructure Deficits
- Site Access
- Integration of Historic Buildings and Outbuildings and Civic Space
- Public Open Space Requirements
- Railway Line and Railway Bridge – New Issue
- Ecological Impact Assessment
- Environmental Impact Assessment (EIA) Screening and Project Splitting

### **7.3. Principle of the Proposed Development - Development Plan/Local Area Plan Policy**

- 7.3.1. Under the Fingal Development Plan 2017-2023 the northern portion of the subject site which fronts onto Main Street and currently accommodates an informal carparking area serving Smyths Bridge House is zoned ‘TC’ Town Centre. The remainder of the site is zoned Objective ‘RA’ Residential Area.

- 7.3.2. The subject lands comprise part of one of four residentially zoned (RA) development areas listed in the Donabate Local Area Plan 2016-2022, which in total have the capacity to provide approximately 3,935 units. The subject site, located to the east of the Dublin to Belfast railway line is referred to as Corballis East. Section 8.2.4 of the LAP states that the lands at Corballis have the potential to provide approximately 1,850 units based on a density of 35 units per hectare.
- 7.3.3. Section 9.1.1 of the LAP outlines the proposed sequencing of development in Donabate with the subject site, which comprise of the small area south of the Village at Smyths Pub, targeted as part of Phase 1, given that this area can be effectively integrated into the established village and community. Phase 1 therefore includes for the subject site lands at / to the south of Smyth's Bridge House for mixed use commercial and residential development, with a stated unit number proposed at c.50 dwelling units, all of which are to be accessed from the Main Street. The current proposal includes for 55 no. residential units, including 14 no. dwelling houses and 41 no. apartments/duplexes, to be delivered in 4 separate blocks (including 4 no. duplex units in Block 1). 3 no. retail units are also to be provided within the area zoned as Town Centre to the side and rear of the existing Smyth's Bridge House.
- 7.3.4. The third party appellants (Donabate Portrane Community Council, referred to here on as DPCC) have raised serious concerns in relation to the site and contend that as the site is part of a much larger Masterplan for the Corballis East lands, that this particular project should be assessed as part of this entire development and that any departure from this would be considered project splitting. I acknowledge that the site does form part of a larger non-statutory Masterplan site, the details of which (dated October 2018) were submitted as part of the current application. The lands at Corballis East cover an area of circa. 28 hectares and the subject site forms the north western portion of these lands. The Masterplan lands are in the ownership of the current applicant. A recent application for services infrastructure, as well as strategic open space on the entire masterplan area under ABP 3040904-19 was refused permission on appeal, due to inadequacies in relation to information on impacts on the qualifying interests of the Malahide Estuary SPA (Site Code: 004025) and Rogerstown Estuary SPA (Site Code 004015), in particular the Light-Bellied Brent Geese. While I note the third-party appellants concerns in relation to the inadequacies of this previous application, I do not agree that the application on the

subject site should be considered concurrently. In addition, while I acknowledge that a recent application was submitted on the larger Masterplan site under ABP Ref. 307633, which was determined to be a reasonable application basis for SHD purposes on 04<sup>th</sup> November 2020, again this application is separate from the current appeal. The LAP is clear that the Phase 1 lands, adjoining and to the south of Smyth's Bridge House, can be accessed independently from the rest of the Masterplan area. It is noted however, that only limited residential development can be completed independent of the services infrastructure proposed on the remainder of the lands. The current application proposed in my opinion would constitute limited development, in line with that envisaged and detailed under Section 9.1.1 of the Donabate LAP. In these circumstances I would consider that Phase 1 of the development is not reliant upon the completion of any other part of the masterplan and is in fact a stand-alone project. If each part of the masterplan development is subject to the EIA Directive (in terms of screening and/ or assessment), then no project splitting arises. The matters of both EIA and AA are considered, in further detail, in Section 7.11 and Section 8 of this report.

7.3.5. Therefore, in summary and taking all the above into consideration I would consider the principle of the proposed development on this site is acceptable.

#### **7.4. Design, Development Standards and Visual Impact**

7.4.1. The Urban Development and Building Heights Guidelines for Planning Authorities (Dept Housing, Planning and Local Government 2019) make the point that a number of assessment criteria should be applied in considering applications for new buildings in urban areas. These criteria include achieving higher residential density in towns and cities, supporting more compact urban growth, supporting higher density in proximity to public transport links, integration of new buildings into the existing public realm, provision of a mix of uses and renewing the urban fabric.

7.4.2. The present case provides an opportunity to revitalise a partial urban infill site on the north of the subject site, which is zoned Town Centre and currently underutilised as an informal car parking area, and utilise the remainder of the site to facilitate housing development, which is a development compatible with the 'RA' zoning objective for the area and the pattern of development in the vicinity. The proposed density of the development is 42.5 dwelling units per hectare, this has been calculated based on

the net site area (as referred to in the Sustainable Residential Development in Urban Areas Guidelines, 2009) and takes account of the developable land which is 1.295ha. This net area discounts the carparking and loading areas which are to serve Smyths Pub and the area accommodating the proposed drainage infrastructure on the south and south east of the site which are necessary due to the site's topography. Under the Guidelines (2009) (Chapter 5) the subject site would be considered an 'Outer Suburban/Greenfield Site' where net density of 35-50 dwellings per hectare is considered appropriate. While I note that Section 8.3.4 of the LAP indicates that a slightly lower overall density of 35 dwellings per hectare will be targeted on LAP lands, I would consider taking into account the Guidelines (2009) and the guidance listed under Section 9.1.1 of the LAP which outlines potential for c.50 dwelling units on site, that 42.5 dwellings/ha is a reasonable density given that the full extent of the site is within 500 metre radius of Donabate Train station and within comfortable walking distance of the town centre, community facilities and recreational and employment uses. While I acknowledge that the Guidelines (2009) also state that in general minimum net densities of 50 dwellings per hectare should be promoted within 1 km walking distance of a rail station, in the case of the current proposal the development of the site is constrained given the shape of the site, the higher elevation of portions of the site, the local topography which differs by c.10m sloping steeply downhill from mid site to the southern boundary, as well as proximity to adjoining properties. Bearing all the aforementioned in mind I therefore consider the proposed density reasonable in this case.

- 7.4.3. The development proposes a broad mix of units on site, comprised of 14 no. houses of a mix of 5 no. three bedroom and 9 no. four bedrooms, ranging in size from 102sq.m to 182sq.m., located in the mid and southern regions of the site. 4 no. two bed roomed duplex units (98.4sq.m in area) located in Block 1 on the northern part of the site close to Main Street are proposed and 37 no. apartments ranging in size from 50.7sq.m to 110sq.m, accommodating a mix of 1, 2 and 3 no. bedrooms with the majority (34 no.) located in Block 4, and the remainder split between Block 3 (2 no.) located to the southeast of the site and Block 2 (1 no.) located along the western boundary of the site to the rear of Smyth's Public House.
- 7.4.4. 10 no. different house typologies are proposed, with the majority proposed as two storey houses with the exception of House Types L, L1 and L2 which are comprised



of 3 storeys with split level garage to at ground floor level. The proposed finishes consist of painted render and/or selected brick and slate or concrete roof tiles. Overall, I consider the design and mix of the proposed dwelling houses generally acceptable.

#### Apartment Standards

7.4.5. In terms of compliance with the Specific Planning Policy Requirements (SPPRs) listed under the Sustainable Urban Housing: Design Standards for New Apartments (Dec 2020) a total of 14 no. one bedroom apartments are proposed, which equates to 25.5% of the total units or 34% of the combined apartment and duplex units proposed. Thus, the figure of one-bedroom apartments to be provided is well below the 50% cap allowed under the Guidelines. In addition, having examined the submitted plans and schedules all the proposed apartments and duplexes exceed the minimum apartment floor areas stipulated under SPPR 3 of the Guidelines. Of the 41 no. apartments and duplexes proposed, 7 no. are single aspect and 34 no. are at least dual aspect. Taking this into account 83% of the apartments/duplexes proposed are at least dual aspect and therefore exceed the requirements as listed under SPPR4. In addition all ground floor apartments exceed the minimum floor to ceiling heights of 2.7m required under SPPR5 and there are no more than 5 no. apartments proposed per stair core, which is well below the 12 no. unit maximum under SPPR6 of the Guidelines.

7.4.6. While I note that deficiencies in private open space were raised as an issue by the planning authority, I am satisfied that these issues, in particular those in relation to the balcony size and access to private open space have been addressed by way of the additional information submitted.

#### Daylight and Sunlight Analysis and Overshadowing

##### Apartments - Block 4

7.4.7. The Guidelines (Dec 2020) also state that regard should be had to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision (S6.6 refers). I note that a 'Apartment Daylight-Sunlight

Assessment' completed by CCK was submitted with the planning application, which had regard to same guides.

- 7.4.8. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 and BRE 209 (2011). Both documents are referenced in the Fingal Development Plan (DMS30), in addition to reference to same in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018, as well as the Apartment Guidelines (2020) as already outlined. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Guidelines (Dec 2020) and the Fingal Development Plan.
- 7.4.9. In relation to The BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for average daylight factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms, or where a room has a dual purpose the higher ADF value is recommended. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout, although if this room is primarily kitchen/dining, the higher ADF of 2% is generally considered to be the recommended ADF. Notwithstanding, the BRE guidance is intended to be applied flexibly, and is only one consideration in apartment/house design. For apartments, or higher density urban schemes, an ADF of 1.5% is considered to be a reasonable target where compensatory design features such as balconies, aspect, outlook, etc. are factored in. In this instance as the scheme is not particularly dense and of lower heights, an ADF of 2% was considered to be a reasonable target.
- 7.4.10. In relation to the proposed apartment Block 4 which contains 34 no. apartments over 4 storeys, the submitted 'Apartment Daylight-Sunlight Assessment' states that the ADF was assessed and focussed on the living rooms and bedrooms of the first floor of apartment Block 4. The reason given for not using the ground floor is that the northern elevation of this floor of Block 4 is comprised of a retaining wall with the

majority of the apartments fronting onto the southern elevation, apart from one no.1 bedroom apartment (no.27) which has windows/light source onto the western elevation. Therefore, the worst-case scenario for the purposes of assessment was considered the first floor and the assessment has been applied to this floor.

7.4.11. The submitted appendices to the Daylight-Sunlight Assessment Report found over this first-floor level that 100% of bedrooms and living room areas exceeded the recommended minimum levels for adequate day light. I note that where combined living room and kitchen areas were assessed at first floor level a minimum ADF of 2.1% was achieved, which exceeds the target. As stated these figures are based on an assessment of first floor level and therefore I would be in agreement with the applicant that by their nature the other floors over and below, which all have similar fenestrations and balcony layouts are thus also likely to receive similar or increased levels of daylight. The only major exception to this would be the ground floor apartment no.27 which is located on the north-western corner of the building and has only a single aspect western facing window. As stated previously the northern elevation of the ground floor is made up of a solid wall with no fenestrations. While a separate assessment of the ADF for this apartment has not been presented I would note that the ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant, has endeavoured to maximise sunlight/daylight to this apartment through the western facing patio doors in the living/kitchen room and also via a western facing window in the proposed bedroom. I would also note, that there will in such urban schemes be challenges meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape and that where this alternate target is not met it is justified and reasonable on the basis of the low number not reaching this target and the quality of the design. The remainder of the ground floor apartments all have south facing aspects with three of the 6 no. proposed at this level with dual aspects also to the east or west.

7.4.12. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March.

Although the applicant's Daylight and Sunlight analysis has not included an assessment of the impacts of the apartment block on the proposed amenity space to the north where a playground and grassed area of public open space are to be located, given the higher elevation of this area, on land which slopes upwards towards the north of the site, and the separation distance provided between 15m and 25m, as well as the open nature of the area surrounding the amenity space, I am satisfied that this area (100% of the area) would achieve sunlight access for more than 2 hours on the 21st March, which exceeds BRE recommendation (of 50%).

7.4.13. The proposed 4 storey block is not situated close enough to existing dwellings to perceptibly impact daylight or sunlight levels. Therefore, no analysis of the impact of these proposed buildings on any existing properties is required, as the potential is negligible and can be ruled out without further testing as per para.2.2.4 of the BRE guidelines.

7.4.14. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight and sunlight provision and having regard to the overall levels of compliance with BRE targets. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

#### Impacts on adjacent residential properties

7.4.15. In designing a new development, it is important to safeguard the daylight to nearby buildings. The site is bound to the west by the Dublin/Belfast railway line and to the east, on the middle and northern portion of the site, by The Strand housing estate, which is comprised of two-storey dwellings of which no.29 to no.39 are located to the rear of proposed housing units no.s 06,07,08 and 09 and partially to the rear of Block 1 on the northern part of the site.

7.4.16. A Sunlight Analysis was carried out on the rear private open spaces (back gardens) to the existing houses no.s 29, 30, 31 and 32 The Strand (submitted by the applicant in response to further information to the planning authority). Both the existing baseline and the proposed scenarios were analysed. This assessment focussed on the impacts of proposed Block 1 on these houses. As specified in the BRE guidelines the existing trees to the rear of these properties were excluded from

analysis. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox). The results of this analysis clearly demonstrate that proposed Block 1 does not significantly reduce the amount of sunlight to the rear private open spaces to adjacent houses no.s 29 to 32 (no.33 and no.34 were also included as part of the diagrams attached to the report) as specified by the BRE guidelines. I am satisfied that due to distances of a minimum of 14.7m between the side of Block 1 and the existing dwellings, which has a maximum height of 8.73m (when measured from upper ground floor level to the south of Block 1) and 11.88m to the north (split level height to include for retail units below housing units) and the location of the development to the north and northwest of the existing dwellings (which are located on elevated sites) that the proposed development is unlikely to have any overshadowing impact on properties on The Strand or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable.

7.4.17. The Sunlight Analysis submitted with the application does not include an assessment of proposed housing units no. 06,07,08 or 09 on the adjoining properties at the Strand, therefore, the report does not provide results for Vertical Sky Component (VSC), Daylight Distribution (DD) or Annual Probable Sunlight Hours (APSH) for these existing dwellings. Notwithstanding the absence of these assessments I am satisfied that due to minimum separation distance of 20m between the existing dwellings and these aforementioned proposed houses (note minimum separation distances of 24.2m are to be achieved from opposing first floor windows), for which a maximum height of 7.385m is proposed for these proposed units (House Type L, L1 and L2) and the location of the development to the west of the existing dwellings, that the proposed development is unlikely to have any significant overshadowing impact on properties at The Strand or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable.

7.4.18. It is noted that no concerns were raised in the appeal or by the planning authority regarding the impact of the development on the residential amenities of existing dwellings with regard to overshadowing, overlooking and overbearing impact. Although not raised in the appeal, I do note that initial concerns were raised by 3<sup>rd</sup> parties on the application, in particular with regard to overlooking from Block 1. The layout of same Block 1 was subsequently amended to address this issue by

removing a terraced area at first floor level from Unit no.5. I have reviewed the amended proposals and carried out a site inspection in respect of all potential impacts on the residential amenity of neighbouring properties. I would note that Block 1 is the closest to the existing properties, and as such has the greatest potential to impact by reason of overlooking, overbearing and overshadowing. However, I am satisfied that having regard to the orientation of the existing properties relative to the development site, the height of Block 1 and the separation distances proposed, it is my view that the proposed development would not have an undue negative impact on the existing residential amenities of these dwellings in terms of overlooking, overshadowing or overbearing impact.

#### Visual Impact

- 7.4.19. As stated in Section 8.3.1 of the Donabate LAP 2016, the lands at Corballis are visually sensitive given their elevation and also the proximity of the Malahide Estuary. Map Based Local Objective no.40 (Appendix 6 Map Based Local Objectives) states the following for the Corballis area *'Ensure that the layout, design and scale of future development on these lands shall have regard to its prominent location, as well as the visibility of these lands from the south. In addition the layout, scale, design and density of development should respect the transitional nature of the sensitive southern boundary area'*. However, it is also stated that opportunity for increased heights and densities are provided in locations closest to the Village and Railway Station and at Local Centre areas, such as Corballis.
- 7.4.20. The lands surrounding the subject site to the south are open in character with the topography gently rising from the estuary and the Donabate Distributor Riad northwards towards Donabate. The ground levels on site rise from 9m OD, up to 21m OD on the central area of the site and back down to circa. 11m OD along the northern boundary. The Strand housing development to the site's east runs along the existing ridge of the hill and is thus clearly visible from the lands to the south. Section 8.2.4 of the LAP states that *'In the interests of protecting residential and visual amenities, no buildings shall be built above the 20m contour line and the maximum ridge / roof heights at this location shall be limited to 26m OD which is below the ridge height of the existing houses at 'The Strand''*.

- 7.4.21. I note that the highest finished floor level proposed on site is at unit no. 10, which is displayed at 18.850m OD on the submitted Proposed Site Layout Plan (CCK drawings no. 0921 PA2 300 and no. 0921 PA2 002), this house has a proposed ridge height of 8.63m (House Type M1). The highest ridge heights of the proposed development relate to houses no.8 and no. 9. House Type L (no.8) 9.785m or 28.025m OD respectively and House Type L2 (no.09) equates to a ridge height of 9.785m or 28.4OD respectively. Both dwelling houses are therefore above the nearest neighbouring terraced dwellings at The Strand which are at 27.92m OD. I note the area planner's comments regarding the highest ridge height at 'The Strand', which is indicated at 28.9m as per CCK drawings no. 0921 PA2 300 and no. 0921 PA2 002, and that the proposed highest ridge height is still 0.5m lower than this existing dwelling. The Urban Development and Building Heights Guidelines advocate the need for flexibility within statutory development plans and given that the proposed development is to be located adjacent to an existing residential development, which has existing ridge heights in excess of that proposed, I would consider deviation from the 26m OD limit as supported in the LAP acceptable in this instance.
- 7.4.22. The Landscape and Visual Assessment (LVIA) which was submitted as part of the application details that during construction phase, given the presence of construction cranes, lighting and other visual disturbances, a 'moderate' and 'negative' impact on the character of the landscape is to be expected. I note however this impact will be temporary in nature and that the operational phase of the proposed development will have a 'slight' and 'negative' impact on the landscape character of the area.
- 7.4.23. The Fingal Development Plan 2017-2023 identifies one protected view relevant to the proposed development, this is '*Views along the Corballis coast road/ Corballis Cottage Road, which runs from the railway line east along the coast towards The Island Golf Club and provides views over the Malahide Estuary*'. This road is located to the south of the DDR and I note the LVIA states that due to the distance of the subject site from the Corballis Cottage Road there will likely be limited views of the proposed development, however Block 4, Block 3 and a number of the dwelling houses to the south of the site may be more visible given the lack of existing vegetation. While I acknowledge that there will be some degree of negative impact on the views towards these lands and on the landscape, as it changes from

agricultural to suburban in nature, and also while I note that the proposed ridge heights of proposed dwelling house types L and L2 will exceed those of the direct neighbouring houses numbers 36, 37, 38 and 39 at 'The Strand', I would consider the cumulative visual impact overall acceptable, given the highest ridge height of 'The Strand' development is at 28.9m and also that mitigation through planting will assist in partially screening 'The Strand' residential development to the north and the development as a whole.

7.4.24. Therefore, having examined the submitted photomontages, in particular the following image numbers VVM 5, VVM 6 and the landscaping proposed as detailed under TBS drawing no.300, as well as consideration of national guidelines, I consider the proposed development acceptable from a visual aspect.

#### Conclusion

7.4.25. In summary, a core principle of the National Planning Framework, is to deliver future environmentally and socially sustainable housing of a high standard for future residents. Having examined the submitted plans and noting the revisions proposed to address those issues raised by the planning authority with regard to meeting the residential standards regarding private open space, boundary treatment, overshadowing and separation distance, I am satisfied that the proposed residential units meet those standards contained in the Fingal Development Plan 2017-2023, and the Design Standards for New Apartments, Guidelines for Planning Authorities (Dec 2020) and that no adverse negative impact on the landscape character of the area will occur as a result of the proposed development.

7.4.26. I will now consider those issues raised under the 3<sup>rd</sup> party appeal in the remainder of my assessment.

#### **7.5. Infrastructure Deficits**

7.5.1. The appellant claims that there are serious infrastructural deficits that need to be addressed within the general Donabate and peninsula area prior to any further development occurring. They cite that there is no scope for additional rail capacity for at least three years and that current limitations on the electricity supply network will only be further impaired by the proposed development. The applicant in response submitted a 'Technical Memorandum' completed by O' Connor Sutton Cronin,



Consulting Engineers, dated 12<sup>th</sup> November 2020, which attempts to address each of the appeal concerns.

- 7.5.2. I note that Donabate is currently served by suburban rail services on the northern line, while bus services serving Donabate are currently relatively limited. Donabate is identified as a metropolitan growth town and the Transport Strategy for the Greater Dublin Area 2016-2035 emphasises rail as the basis for public transport to serve growth in this area. In relation to rail travel, the memorandum suggests that demand on the line has actually reduced according to the National Heavy Rail Census 2018. However, I note that this census compares only the previous year 2017 and that of the study year 2018. The transport strategy for the GDA contains objectives for heavy rail infrastructure including completion of the City Centre Re-signalling programme (on-going) and implementation of the DART Expansion Programme, which will provide DART services across the network as far north as Drogheda. While it is understood that the project is at preliminary design stage and completion is not expected until 2027, it is noted that procurement of new rolling stock for Irish Rail is currently underway which includes hybrid stock in order that delays in the electrification of the line will not impact on improvements in services along this route.
- 7.5.3. The memorandum argues that in relation to bus services and demand that the proposed development would cause a negligible transport demand and that in the future, the bus service linking Donabate to Swords will ultimately link with Metrolink i.e. the proposed new light rail service, which will in turn provide a faster and more convenient link to the city centre. This planned high frequency, high capacity service is to terminate at Estuary Park-and-Ride at Lissenhall, on the northern side of Swords, approx. 5km from Donabate. Both the Dart Expansion Programme and the Metrolink projects are strategic investment priorities of the National Development Plan 2018-2027 and it is therefore clear that there are significant levels of public transport investment planned for this area, based primarily around rail service. Therefore, while I acknowledge that the services are not currently in place, I would not expect the addition of 55 no. houses, as is proposed under the current development, will significantly impair the current capacity on the line or that of the existing bus services.
- 7.5.4. The appellant also highlights concerns with regard to demand on the existing electricity supply and broadband infrastructure, which they believe will be further

exacerbated by the proposed development. I note in their submission to the applicant's response to the appeal (dated 16<sup>th</sup> December) that the DPCC are of the view that the multiple outages in the Donabate area in the last three years are possibly as a result of the overload of the existing two medium voltage feeders (10kV) lines which feed from the parent 38kV station in Swords. However, when the ESB were consulted on same matter, they associated same outages with bad weather events. In any event, I consider a development of 55 no. residential units and 3 retail units would be negligible on the overall electricity or broadband network and therefore I am in agreement with the applicant and the submitted technical memorandum in this regard.

## **7.6. Site Access**

- 7.6.1. The appellant states that should the construction site access road be permitted off Main Street at Smyth's Pub it will have a severely detrimental impact on the community from both traffic and pedestrian/cyclist safety perspectives. They argue that as an alternative, construction traffic should access the site via the DDR which is located approx. 427m from the southern boundary of the proposed site. The appellant states that, considering the Masterplan for the development of the area and the application under the SHD Scheme ABP Ref: 307633 for circa 1.400 units, that delivering a service road to the rear of the subject site is a reasonable expectation.
- 7.6.2. The planning authority had also queried the viability of providing the proposed construction access from the DDR and requested additional information in relation to same. The applicant in response argued that the gradients across the site at the rear (south) of the proposed development are excessive and would entail construction vehicles negotiating a vertical up-gradient of 8.1% before traversing a further half kilometre across existing agricultural fields before exiting onto the DDR and vice versa for entering the site. The distance to be negotiated from the DDR to the front (northern) part of the site which adjoins Main Street is approx. 675m and therefore would prohibit the construction of the site. I note that the planning authority and the Transportation Planning Section following an assessment of the additional information both concurred with the applicant on this matter and considered that the access from Main Street was acceptable, given the anticipated limited movements

carrying materials to the site and having regard to the relatively small scale of the development proposed.

#### Construction Phase Traffic Impacts

- 7.6.3. Having examined the submitted CEMP (dated 16<sup>th</sup> March 2020) I note under Section 4 that the applicant proposes that all construction traffic will use the R126 on Main Street and then Hearse Road on to the M1 at the Lissenhall Interchange. No construction traffic is proposed to travel through the town centre, and all will access and egress the site from/to the west. Regarding estimated construction movements, the applicant states that given the small scale of the development and the proposed construction period (18-24months) that there will be limited truck movements taking materials off site. The applicant also states that there will be limited movements bringing materials to the site and estimates daily volumes of: 5 no. private vehicles per day with staff and visitors; 5 no. light goods vehicles with subcontract staff; 25 no. heavy goods vehicles trips carrying excavated material, granular fill and concrete during excavation and foundation forming periods; and 10 no. heavy goods vehicles outside major excavation and foundation pouring periods. Normal hours of work as detailed under Section 8 of same CEMP are proposed from 07:00-19:00 Monday to Friday and from 08:00-14:00 on Saturdays.
- 7.6.4. While I acknowledged the constraints on the surrounding road network, it is my view that the potential number of trips generated by the proposed development would not have a significant impact on the capacity of the network and that the location of the construction traffic entrance to the proposed development off Main Street would not result in a traffic hazard or generate any road safety issues.

#### Operational Phase Traffic Impacts

- 7.6.5. The appellant outlines their concerns in relation to the proposed entrance off Main Street and the potential conflicts with existing traffic flow along Main Street and vehicles accessing local businesses and the train station. In addition, they also state that given the significant footfall anticipated from the new pedestrian/cyclist bridge over the railway line, which will only be further exacerbated by the developer's SHD scheme application (SHD Pre-app ABP Ref. 307633), that the Main Street entrance should serve pedestrians and cyclists only and a viable access route to the rear of the development should be prioritised.

- 7.6.6. A Traffic Impact Assessment completed by OCSC was submitted in conjunction with the application. In order to establish the base conditions on the local road network a series of traffic surveys were carried out at 5 separate junction locations in the vicinity, which included surveys at the Main Street/Chapel View Priority Junction to the east of the proposed site entrance and the Main Street/Turvey Avenue/Hearse Road Priority Junction to the immediate west of the railway bridge. The surveys which were carried out in March 2018 predated the opening of the DDR and therefore in order to allow the impact of this road to be taken into account in the assessment a series of origin-destination surveys were also carried out which recorded the vehicles travelling between certain points around Donabate and the time it took to make these journeys. For the purpose of the assessment the base year flows were then adjusted to the assumed year of opening, which in the case of the proposed development was assumed at 2023. Based on the information gathered and an assessment of this data, the proposed development would generate circa. 302 additional trips a day. Of these, approximately 8 arrivals and 23 departures are expected during the A.M. peak hour (08:00-09:00) while approximately 21 arrivals and 13 departures are expected in the P.M. peak hour (16:45-17:45). The assessment concludes that the proposed development entrance junction operates with no issues and significant reserve capacity and that the proposed development will have a negligible impact on the links and junction in the local network.
- 7.6.7. It is my view that the potential number of trips generated by the proposed development would not have a significant impact on the capacity of the network and that the proposed development would not result in a traffic hazard or generate any road safety issues. The proposal will deliver much needed improvement works to Main Street which would be delivered in advance of works commencing on the site.

#### Proposed Access Arrangements

- 7.6.8. I note that the Transportation Planning Section of Fingal County Council required several amendments be made to the original access arrangements. As a result the submitted amended proposal included appropriate adjustments to the junction arrangements and access to Block 4, the incorporation of a 'Cycle Street' for the full extent of the access road and further details of signage, layout, delineation and cycle cross over to facilitate safe movement of pedestrians and cyclists, all of which are

detailed on OCSC Drawing no. C829-OCSC-XX-XX-DR-C-1200 S3 Rev. P04. The appellant submits that the proposal now contravenes the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, May 2009 and the definition of 'Home Zone' under same, which would require two access points for shared vehicle/pedestrian surfaces which accommodate up to 50 dwellings. Therefore, they believe the provision of one access point off Main Street is in contravention of same guidelines, as the development is for 55 dwelling units.

- 7.6.9. Having examined the proposal, I would not agree with the appellant's interpretation of the type of street referred to on site as a category (d) 'Home Zones'. According to Section 3.18 of the guidelines these types of streets are more akin to residential streets in which the road space is shared between drivers and other users including pedestrians. In the case of the current proposal the shared road surfaces do not extend to use by pedestrians, as segregated footpaths are provided throughout the development. The access arrangements provided on site which include the proposed village link road of width 5.5m, in fact more closely relate to category (b) 'most residential streets' where it is stated that segregated cycle tracks are not generally required and therefore may share the existing surface with vehicular users. In addition I note that each of the side access roads off the internal link road now display 'stop' signs (as illustrated on OCSC Drawing no. C829-OCSC-XX-XX-DR-C-1200 S3 Rev. P04) therefore ensuring that vehicles exiting side streets must give way to cycle traffic travelling along this route. I also note that those measures as listed in the Road Safety Audit completed by Atkins, which was submitted along with the application appear to have been incorporated on the submitted drawings thus addressing any concerns that the designer raised regarding vehicular, pedestrian and cyclist conflicts.
- 7.6.10. On the southern part of the site, a pedestrian and cycle bridge (permitted under P.A. Ref: Part VIII/004/19) is proposed over the railway line, which will link the subject site to the under construction residential development located to the west of the rail line i.e. the existing housing development of Prospect hill and the partially completed and under construction residential development of Semple Woods and permitted residential development P.A Ref: F17A/0113. As stated, the subject development includes within it a shared cycle route from this new pedestrian/cycle bridge to link the current development to the town centre. The appellants argue that the increased

influx of cyclists from this route may lead to cyclist and vehicular conflict, however as stated above, given the proposed shared surface link road and the provisions included by the applicant, I am satisfied that the current proposal can cater for any additional cyclist traffic on site.

7.6.11. Therefore, in conclusion, subject to the further details of road and footpath widths to be agreed with the planning authority by way of condition, I have no objection to the revised access arrangements proposed by the applicant, and I consider one access point into the housing development sufficient and in accordance with Section 9.1.1 of the Donabate LAP 2016, which envisaged limited vehicular access to these Phase 1 lands, with no through-route.

#### Carparking and Bicycle Parking

7.6.12. A total of 112 no. car parking spaces are to be provided on site. Of these 44 no. car parking spaces are proposed to serve the adjoining Smyth's Pub, which the applicant states forms part of the deed of the sale. These spaces are to be located in the northern area of the site, adjacent to the existing pub and also the proposed commercial units. It should be noted however that no dedicated parking provision is proposed to serve the proposed commercial units in this area. Given the proximity of the proposed units within walking distance of the town centre and the railway station I consider this acceptable. The remaining 68 no. car spaces are to serve the residential element of the proposed development. Each house other than house types L, L1 and L2 are provided with 2 no. in curtilage car parking spaces. House types L, L1 and L2 have integrated garages which provide parking for 2 no. cars. 1 no. car parking space is provided for each unit for the proposed apartments and duplexes, all at surface level apart from the car space serving Block 2 which is to be provided as an integrated garage. Given the location of the proposed development within an area defined as Zone 1 under Section 12.10 of the development plan i.e., within 1600m of DART station, I consider the parking provision on site acceptable.

7.6.13. A total of 98 no. bicycle parking spaces are to be provided on site, 94 no. for the residential element and 4 no. for the commercial element. These are to be provided in a variety of locations including covered dedicated bicycle stores adjacent to Block 1 and Block 4. Having regard to the bicycle parking standards as detailed under

Table 12.9 of the development plan I consider the proposed development meets the standards in this regard.

## **7.7. Integration of Historic Buildings and Outbuildings and Civic Space**

- 7.7.1. The subject appeal site provides a connection to the town centre through lands adjoining Smyth's Bridge House, which are zoned for town centre uses. The pub and its associated three ancillary historic buildings are identified as protected structures (RPS No. 0509) in the County Development Plan. The pub structure is described as having regional architectural importance under the National Inventory of Architectural Heritage (NIAH Ref. no. 11336022), with the associated stone outbuildings. All these aforementioned buildings are outside of the application boundary but form an enclosure of sorts around the northern part of the site and the existing informal car park on site.
- 7.7.2. The third party appeal states that the proposed development, in particular the massing and elevation of Block 1, fails to appropriately integrate with the protected structure at Smyth's Public House and the historic outbuildings along the eastern boundary of the site, and therefore the development as proposed would have a negative visual impact on the historic buildings.
- 7.7.3. It is understood that the proposed layout is influenced by a private legal agreement to provide 44 no. parking spaces for the adjoining Smyth's public house. This is in excess of the current level of parking which could be accommodated on the site. In my visit during the afternoon time, I observed approximately 7 no. cars parked on the site. It is unclear whether such parking was commuter parking associated with the adjacent railway station. The proposed layout of development in this area was subject to review at additional information stage and some improvements to the layout were provided, including landscaping and tree planting zones to minimise the prominence of the cars beside the historic buildings as detailed on TBS drawing no. 1512 300 rev.9 (dated August 2020) and the inclusion of a 1.8m high rendered boundary wall with stone capping to the rear of and side of Smyth's Pub. Concerns were also raised by the planning authority's Conservation Officer in relation to the design and finishes of Block 1 and 2. I note the report of the planning authority's Conservation Officer (dated 15<sup>th</sup> September 2020) with regard to these revised proposals and would generally concur therewith, apart from her assessment of the

revised drawings for Block 2, which I believe present a more sympathetic and traditional form of front elevation, with its curved brick arches, which reflect those on the cart house/barn buildings along the eastern boundary of the site. I would therefore suggest that if the Board are minded to grant permission, that the design of these revised drawings prepared by CCK Architects as illustrated on drawings no. 0921 PA2 210 (revn. A) and 0921 PA2 211 (revn. A) should be implemented. The Board should note however, other concerns in relation to Block 2 have been raised by Irish Rail which are discussed further under Section 7.9 below.

- 7.7.4. Landscaping and completion of the civic space in accordance with the details submitted are critical to the success of the design and subject to all these details being agreed with the planning authority prior to commencement of development, including the details regarding the sculptural feature at the plaza location, I do not consider that the development would have an unacceptable impact on the setting or relationship of buildings on the site. In addition, the OCSC document submitted in response to the planning authority's additional information request notes that it is not intended to construct any new structures in the vicinity of historic buildings. Notwithstanding, it is proposed that a method statement and temporary works design will be prepared in advance of the commencement of works on site. I would suggest to the Board that a condition requiring same should be attached to any grant of permission on site.
- 7.7.5. In addition, while I note the appellant's concerns in relation to the proposed three storey height of Block 1, I consider the location of this building set back c.68m from the junction with Main Street, as well as the proposed alterations as illustrated on CCK drawing no. 0921 PA2 204 Revn A, which includes for a level change expressed in the roof, which will provide a form of break on the building façade and also the redesign of the shopfronts and inclusion of features such as plinths/kickers, will mitigate the impact of this taller building and allow a more sympathetic integration of the structure into the overall historical setting. In addition, with the integration of appropriate landscaping as proposed by the applicant I again consider this acceptable.
- 7.7.6. The applicant outlines in their submitted Design Statement (dated April 2020) which was received with the application, that the size of the civic space is to be kept compact so that the scale remains intimate. The parking areas surrounding the civic



space are to be divided into two courtyards east and west and soft landscaping including hedges and trees are proposed to minimise the visual impact of cars on the space. I note the appeal raises an issue with the civic space, stating that the space does not serve the function it is intended for and does not conform to the details envisaged under Section 4 of the Donabate LAP i.e. the space is not flexible and is not a usable space for local events and small markets and has no zones for outdoor café seating. I note the applicant's response to same concern stating that the Civic/Public Space referred to in the LAP relates to a future square to be delivered on the wider Corballis East lands, adjacent to the school site and does not refer to the current site as implied by the appellants. Having examined the LAP I would concur with the applicant's response on this and note that Section 4.3.1 of the LAP refers to same Civic/Public Space which would appear to be at a different proposed future location on the Corballis site, overlooked by possible future local shops, a school and other services.

## **7.8. Public Open Space Requirements**

- 7.8.1. The appeal considers that the proposed development is short in its provision of public open space and states that cash in lieu for insufficient public open space cannot be deemed justifiable in this case. I note that Objectives DMS57A and DMS57B of the development plan requires a minimum 10% of a proposed development site area be designated for use as public open space.
- 7.8.2. The quantum of open space provided on site was queried previously by the planning authority and in their response to the request for additional information the applicant outlined that the area of the site which can be reasonably attributed to residential development for the purposes of calculating the public open space required under Objectives DMS57A/DMS57B is actually 1.464ha. This figure was calculated by removing the parts of the site which incorporate the public road (Main Street upgrade works) and the areas associated with the detention basin and pumping station to the south of the site. The applicant makes the argument that these areas serve the first phase of the development, as an interim measure, pending the construction of subsequent phases of adjoining residential lands under the applicant's control, and that these should be excluded from the calculations of the residential site area. The areas designated for residential development are clearly shown on CCK Drawing No.

0921 PA2 008 A (submitted with the appeal response), with the excluded areas also illustrated.

- 7.8.3. Section 4.21 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, advocates a flexible approach towards public open space provision, focusing on the need to deliver qualitative standards over quantitative in certain cases where residential developments are close to the facilities of town centres or in proximity to public parks or coastal and other natural amenities. Alternatively, the guidelines also outline that the planning authority may seek a financial contribution towards public open space or recreational facilities in the wider area in lieu of public open space within the development
- 7.8.4. The planning authority in their deliberations noted the planning gain associated with the development, in particular, in terms of the junction upgrades on the public road at Main Street and considered the proposition put forward by the applicant acceptable in this case. The planning authority also highlighted that the Development Plan allows for a flexible approach in the delivery of public open space. Having considered the case before me I am in agreement with the planning authority that a flexible approach should be adopted in this case.
- 7.8.5. Based on a revised residential site area of 1.464ha, the applicant notes that the proposed open space provision of 0.16ha as proposed in fact represents 10.9% of the residential site area and that compliance with Objectives DMS57A and DMS57B has therefore been achieved. However, Section 12.7 of the FCC Development Plan outlines further requirements regarding public open space and Objective DMS57 requires 'a minimum public open space provision of 2.5 hectares per 1000 population'. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. I note that this figure was calculated incorrectly by the planning authority at 0.12225ha and having examined the basis for calculations under Objective DMS57, and given that a total figure of 0.28125ha is required (40no. two beds x 1.5 + 15no. three beds x 3.5) and 1.6ha is provided on site, then I note that a correct revised figure of a shortfall of 0.12125ha should apply. The Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5. If the Board are minded to grant

permission I would suggest that a condition is attached requiring a financial contribution in lieu of this shortfall in public open space.

## **7.9. Railway Line and Railway Bridge**

- 7.9.1. I note that the prescribed body Iarnrod Eireann made a submission on the original application, in which they raised concerns in relation to a number of issues. These concerns do not appear to have been addressed in the area planner's reports and I can find no record of the submission within the planner's reports. The prescribed body raised valid concerns in relation to the lands within CIE ownership i.e. the approach road and embankments to the railway bridge. These same lands were mistakenly referred to as Fingal County Council lands on OCSC drawing titled 'Letter of Consent Drawing' no. C829-OCSC-DR-C-101-S2-P01. The railway authority states that any works proposed to the approach road and embankments to the bridge including resurfacing, laying of ducts or services etc will require written consent from CIE/Irish Rail.
- 7.9.2. In addition the proposed road improvement works, including the raised traffic platform to the front of the site on Main Street may also impact on the entrance to Donabate railway station and the manner in which these roadworks are undertaken will need to be agreed with Irish Rail.
- 7.9.3. Irish Rail have also expressed concerns in relation to the proximity of proposed Block 2 to the top of the steep railway cutting and the risk of slope failure during or after construction, with CCK proposed Site Layout Plan drawing no. 0921 PA2 003 indicating the proposed structure is as close at 1.4m from the railway boundary. Irish Rail state that Block 2 will need to be relocated to eliminate all risk of slope failure. Point no.15 of the Irish Rail submission further outlines that no building shall be constructed within 4m of the boundary treatment on the applicant's side. The railway authority has also included a list of other measures which will need to be adhered to, including suitable boundary treatments to include a 2.4m high solid block wall boundary required along the western boundary of the proposed site. TBS Drawing titled 'Proposed Boundary Treatment and Details' (drawing no. 1512 302 7,) shows the proposed boundary treatments for the entire site and includes for a 2.4m high boundary wall along the majority of the western boundary, apart from the area to the rear (west) of Block 2 and the 14 space car parking area to the north of same. In this

area a 1.8m high, render wall with capping is proposed. While a condition could be attached to any grant of permission to ensure the necessary height of this boundary wall at 2.4m, there still remains unresolved issues in relation to the other matters highlighted by Irish Rail. In my opinion Irish Rail raise a valid concern in relation to the proximity of Block 2 to the railway embankment and given the risk of slope failure during or after construction I would recommend to the Board that Block 2 is omitted from the proposed development. A condition requiring the omission of same has therefore been attached for the Board's consideration.

#### **7.10. Ecological Impact Assessment (EclA)**

7.10.1. The planning authority identified inadequacies in the submitted bat assessment completed by Fers (dated March 2020) in that surveys had not been carried out in the optimal survey period. Following a request for additional information the applicant submitted an EclA completed by Fers (dated August 2020) which contained an up to date assessment, including bat surveys completed during the summer period (dates 15<sup>th</sup> June – 13<sup>th</sup> July 2020). While bat activity was recorded on the site, the results of comprehensive dawn (emergence, swarming) and dusk surveys showed no evidence of a roost anywhere within the proposed application site or immediately adjacent to the site. Following a review of the submitted information, I am satisfied that the proposed development will not have any significant negative ecological impacts, assuming that those mitigation measures listed in the EclA are implemented and that the proposed development is undertaken in accordance with the Wildlife Act (1976) as amended. In line with the response received from the Department of Culture, Heritage and Gaeltacht (dated 29<sup>th</sup> June 2020), I note that the planning authority have attached a condition (no.17) restricting the removal of vegetation, trees and scrub on site to the period outside of the main bird nesting season. If the Board are minded to grant permission I would suggest a similar condition is attached.

#### **7.11. Alien Invasive Plant Species**

7.11.1. An updated Alien Invasive Plant Species Management and Control Plan (August 2020) carried out during optimal survey periods was requested as additional information by the planning authority. Three cornered Garlic/Leek (*Allium triquetrum*) was the only identified species observed during these subsequent site surveys. This

plant is listed under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011) as a non-native species subject to restrictions under Regulations 49 and 50. Under Regulation 49(2) any person who plants, disperses, allows or causes to disperse, spreads or otherwise causes any of the invasive plants listed in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011) shall be guilty of an offence. Furthermore, Sections 52(7) and (8) of the Wildlife Act, 1976, as amended, make it an offence to plant or otherwise cause to grow in a wild state exotic species of plants.

7.11.2. I note that measures have been outlined in the updated Alien Invasive Plant Species Management and Control Plan (August 2020) which are to be implemented on site, including further surveys and mapping, eradication of *Allium triquetrum* by mechanical means, biosecurity measures and biannual monitoring of the application site in future. I am satisfied with the measures proposed within the Alien Invasive Plant Species Management and Control Plan (August 2020) and that compliance with same can be addressed by way of condition.

#### **7.12. Environmental Impact Assessment (EIA) Screening and Project Splitting**

7.12.1. The submitted third party appeal and submission following the applicant's response to same, states that the proposed development should be subject to an EIA, on the basis that it forms part of a larger development, associated with the overall landholding of the applicant, that was previously subject to an application for infrastructural works under ABP Ref.304904 (subsequently refused by the Board).

7.12.2. The appeal states that current application (Phase 1) should be considered in conjunction with future residential development (Phase 2) which is included as part of the Masterplan for the Corballis area, which was submitted with the application. The appeal and subsequent submissions argue that the cumulative impacts of the wider development has not been adequately addressed, including consideration of ABP Ref. 307633 which has been deemed to have a reasonable basis for application under the SHD scheme and is to be located on the Phase 2 lands to the east of the subject appeal site. The 3<sup>rd</sup> party appellant therefore states that the current application constitutes project splitting, in order to avoid the need to carry out an EIA.

- 7.12.3. I note that this question has previously been considered in principle by the Board and by the courts in other planning cases. The term project-splitting generally refers to the sub-division of a larger project into smaller, sub-threshold parts in order to avoid the requirement to undertake environmental impact assessment. The potential for project splitting is often raised in relation to proposed development within a larger master plan development, the full details of which may, or may not, have yet been finalised.
- 7.12.4. A review of the current application to determine the requirement for EIA was prepared on behalf of Fingal County Council by Brady Shipman Martin, dated July 2020. This review determined that insufficient information had been provided to the planning authority for them to make a determination on the requirement for sub-threshold EIA. As a result, an EIA Screening Report was requested as additional information by the planning authority, to which the applicant submitted a response in August 2020.
- 7.12.5. The content of the submitted EIA Screening Report completed by Declan Brassil & Company and informed by an Ecological Impact Assessment and Appropriate Assessment Screening Report and Natura Impact Statement both prepared by FERS have been read and noted. I note that a further review of these reports was carried out on behalf of Fingal County Council by Brady Shipman Martin, dated September 2020. This review concluded that the proposed development will not give rise to significant likely effects on the environment and therefore the proposed development does not require sub-threshold EIA.
- 7.12.6. Following a review of the submitted information, assessments and appeal documentation I have carried out my own assessment of the proposed development and EIA Screening determination. The details of same are outlined in the sections that follow and the rationale which led to my conclusion.

#### Project Splitting

- 7.12.7. Firstly, while I note that the appeal site does form part of a larger landholding, for which an indicative Masterplan for its future development has been prepared, I also note that the proposed current development works do not have dependency on any subsequent residential applications for commencement or completion. The question which was raised previously under ABP Ref. 304904 on the lands to the east of the

current site at Corballis East, was whether the Board is obliged as a matter of law to carry out an EIA of the entire masterplan development. Given that the current application forms part of this larger site, within this non-statutory plan, I believe the same query applies to the current case. As highlighted previously in the case of ABP Ref. 304904 in accordance with the decision of the Supreme Court in the Apple case, *Fitzpatrick and anor v An Bord Pleanála and others [2019]*, the Board is only obliged to carry out an EIA of the proposed development for which planning permission is sought. I also note that the development of the first phase is not functionally (as in the case of *O’Grianna & Ors. v An Bord Pleanála [2014]*) dependent upon the build out of further phases, as envisaged in the masterplan. Once built, the subject proposed development could be operated independently and hence, in that sense it is a standalone project. I do note that the Board is additionally obliged, however, to take account as far as practically possible of the environmental effects of potential later phases of development identified in the masterplan. This is examined in greater detail below.

#### Requirement for EIA – Screening for EIA

- 7.12.8. The proposed development provides for 55 no. residential units of varying sizes and types, 3no. retail units, public open spaces, upgrade to the public road and the reconfiguration of the existing car park serving Smyths Bridge House, together with a small civic area and all associated site and development works. Of note and as mentioned previously in this report, the proposed development also provides a cycle link between the approved footbridge over the rail line and Donabate Town centre, connecting Corballis West and Newbridge House to the town centre.
- 7.12.9. Schedule 5 of Part 2 of the Planning and Development Regulations, 2001 (as amended) sets out the categories of development and thresholds for activities that require the submission of EIS. The proposed development of 55 housing units is significantly below the threshold for residential development as set out in Class 10(b)(i)– construction of more than 500 dwelling units and Class 10(b)(iv) at 2 ha in area also well below the threshold for the site area outlined (ten hectares).
- 7.12.10. Notwithstanding that there is no requirement for mandatory EIA, it is noted that the proposed development, being a class of development listed in Part 2 of Schedule 5, is to be assessed with regard to the criteria set out in Schedule 7 of the Planning and

Development Regulations, and may in accordance with Class 15 of Part 2 of Schedule 5 be subject to the requirement for a 'sub threshold' EIA. The submitted EIA Screening Report therefore carries out screening for this sub-threshold development. The assessment notes that the application site which has an area of 2 ha previously formed part of a larger application site under P.A. Ref. F18A/0618 (ABP 304904) which was refused by the Board. This previous application was accompanied by an EIAR and NIS.

7.12.11. The site area does not fall within any European Sites or any other designated natural heritage sites and, as considered in the Appropriate Assessment, would not be likely to adversely affect the integrity of any European sites having regard to their conservation objectives. The site is located approximately 1 kilometre from the Malahide Estuary (SAC, SPA, pNHA) and almost 2 kilometres from the Rogerstown Estuary (SAC, SPA, pNHA). The hydrological and hydrogeological risk assessment completed by AWN establishes that there is no resultant direct or indirect source pathway linkage from the proposed development which could result in any change to the current water regime at the Natura 2000 sites. Potential disturbance of birds utilising the Malahide Estuary has been considered in the Ecological Impact Assessment and AA and it was noted that the habitats between the proposed development and the Malahide Estuary are not utilised for foraging and/or roosting by any qualifying interests of the adjacent SPAs. In addition, the report notes that given the presence of the DDR between the proposed development and the Malahide Estuary, potential for disturbance to overwintering waders utilising the designation sites associated with construction of the proposed development is minimal.

7.12.12. The Ecological Impact Assessment Report finds that the ecological value of the site and the agricultural parcel of land adjacent is limited by the 'island' nature of the habitat occurring, with the site bounded by the railway line to the west, the DDR to the south and Donabate and associated road networks and built up areas to the north.

7.12.13. Smyth's Bridge House is noted to be a protected structure along with other structures in its curtilage. No works to the structure or its outbuildings are proposed but creation of the new vehicular entrance and parking provision will require the removal of the existing low roadside boundary wall, which marks the site of a



previous building on the site. Site clearance works may identify evidence of other features or buildings of interest on the site and a full photographic written and drawn record will be undertaken of any additional outbuildings uncovered during archaeological monitoring in accordance with the mitigation measures provided under the Archaeological Impact Assessment completed by Archer Heritage Planning which was submitted with the planning application.

- 7.12.14. Having regard to the nature and extent of the impacts identified in sections 4.1 and 4.2 of the report, no significant adverse impacts with a high frequency of occurrence have been identified. Landscape and visual impacts on the open character of the site though permanent, are not considered to be significant having regard to inter alia the context of the site and the plan-led nature of the development in compliance with the LAP and the town centre and residential zonings.
- 7.12.15. Design and preventative measures to ensure environmental protection including potential noise, dust and other impacts are provided for in the Construction and Environmental Management Plan, Surface Water Management Plan and Construction and Demolition Waste Management Plan and also through the implementation of standard conditions.
- 7.12.16. I note that it is established in the Traffic Impact Assessment and Road Safety Audit that there will be no increased risk to safety of human beings in the vicinity of the proposed entrance or within the site of the development with the impact on traffic volumes on the road network in the area being marginal. In relation to site services, no adverse impacts are predicted in relation to surface water drainage, foul drainage or watermain network.
- 7.12.17. Section 4.1.1.3 of the report refers to Cumulative Impacts and notes that with respect to Screening, the European Union Environmental Impact Assessment Projects Guidance on Screening (2017) notes that *'the characteristics of projects, which must be considered having regard, in particular, to the size and design of the whole project, the culmination with other existing and/or approved projects, the use of natural resources, the production of waste, pollution and nuisances, and the risk of major accidents and or disasters and the risk posed to human health'*. The assessment notes that under the LAP the subject lands comprise Phase 1 of the Corballis East area and that a masterplan for the entire Corballis lands exist. The

previous application on the larger site in connection with infrastructure works under ABP Ref. 304904 was noted, however this was refused permission and therefore should not be considered cumulatively in accordance with the above guidance. A permitted development on the Corballis East Lands under P.A. Ref. F19A/0472 comprising a wastewater pumping station and associated works was permitted with the intention in the future of serving the masterplan site at Corballis. The SHD scheme under ABP Ref. 307633 which is highlighted as another concern under the appeal, is in its early consultation stages and no permission has been received for such development to date. Future development of the Corballis East lands will be subject to separate planning application(s) and EIA where deemed necessary.

- 7.12.18. On the basis of the information outlined above, I do not concur with the appellant's arguments regarding the need for an EIA for the project. I do note however the requirement to take account of the cumulative effects of later phases of development. The environmental effects of the later development (Phase 2 etc.) should be assessed cumulatively with the current case, if approved, or any other existing or approved development, even where the earlier development may quite legitimately have been regarded as not being likely to have significant environmental effect. Future applications for development on these lands will also be subject to screening for EIA and where appropriate, preparation of an EIAR. In this regard, there is no issue of avoidance or project-splitting in the current case.
- 7.12.19. In addition to the above, I note that the LAP has been subject to Strategic Environmental Assessment (SEA) to predict and evaluate the likely environmental effects of implementing the plan, including the future development of the Corballis East lands. The subject proposed development has been designed to be consistent with the LAP and incorporate where appropriate or relevant mitigation measures. Accordingly, I believe that the proposed development is responsive to the potential cumulative future developments of the wider area.
- 7.12.20. For the purposes of completeness, I have carried out an independent EIA Screening Assessment in accordance with the requirements of Schedule 7 of the Planning and Development Regulations 2001 (as amended). The information available in connection with the proposed development is considered adequate for the purposes of issuing a screening determination. This independent assessment is attached to this report for the Board's consideration. Based on this assessment and

consideration of all other matters outlined in the sections above, I consider it reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and therefore an environmental impact assessment is not required. In addition and to separately address the concerns raised in the appeal in relation to project splitting, in the case of the current appeal I would conclude that Phase 1 of the development is not reliant upon the completion of any other part of the master plan and can therefore be considered a stand-alone project.

## 8.0 **Appropriate Assessment**

8.1. The subject planning application was accompanied by an AA Screening Report and Natura Impact Statement (NIS). A review of the submitted AA Screening Report and NIS was carried out on behalf of Fingal County Council by Brady Shipman Martin (Report dated 13<sup>th</sup> July 2020). This review identified gaps in relation to water quality mitigation measures and disturbance prevention measures to be employed during the construction phase. The planning authority subsequently requested additional information in relation to the development to include revisions to the submitted NIS. Following receipt of this additional information on 25<sup>th</sup> August 2020, a further review of the submitted revised AA Screening Report and the NIS was carried out by Brady Shipman Martin (dated 11<sup>th</sup> September 2020) on behalf of Fingal County Council. This review then informed the Appropriate Assessment undertaken by Fingal County Council as the competent authority.

### 8.2. **Screening for Appropriate Assessment**

- 8.2.1. The development is not directly connected with or necessary to the management of any European Site.
- 8.2.2. A list of 18 no. European Sites that occur within 15 km/ within a possible zone of influence of the proposed development is presented in Table 8.1 below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail in the sections that follows.

<b>Table 8.1 - European sites in the wider area – 15km radius of the site</b>
<ul style="list-style-type: none"><li>• Malahide Estuary SAC (000205) &amp; SPA (004025);</li></ul>

- Rogerstown Estuary SAC (000208) & SPA (004015);
- Rockabill to Dalkey Islands SAC (003000);
- Rockabill SPA (004014);
- Skerries Island SPA (004122);
- Howth Head SAC (000202) & Howth Head Coast SPA (004113);
- Lambay Island SAC (000204) & SPA (004069);
- Baldoyle Bay SAC (000199) & SPA (004016);
- Ireland's Eye SAC (002193) & SPA (004117);
- North Dublin Bay SAC (000206);
- North Bull Island SPA (04006);
- South Dublin Bay and River Tolka Estuary SPA (04024).

8.2.3. There are no Natura 2000 sites located either within or directly adjacent to the proposed development. The closest sites to the appeal lands are Malahide Estuary SAC and SPA approx. 740m south of the site, and Rogerstown Estuary SAC and SPA located approx. 1.6km to the north. Sites identified and considered further in the application Screening Report are as follows:

- Malahide Estuary SAC (00205) and SPA (004025) (also known as the Broadmeadow/Swords Estuary SPA and referred to as same in the submitted report) and;
- Rogerstown Estuary SAC (00208) and SPA (004015)

8.2.4. With regard to the other sites identified in Table 8.1 above, I am satisfied having regard to the nature and scale of the proposed development, its location on serviced lands adjacent to Donabate, its separation from these sites and the absence of direct source – pathway – receptor linkages, that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects thereon. The scope of the applicant's Screening Report is therefore considered to be reasonable. Detailed in tables 8.2 to 8.5 below are the Qualifying Interests/Special

Conservation Interests and Conservation Objectives of the 4 sites identified for further assessment.

<b>Table 8.2 Malahide Estuary SAC (00205)</b>	
<b>Qualifying Interests</b>	<b>Conservation Objectives (Generic)</b>
<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> </ul>	<p>To maintain or restore the favourable conservation condition of Annex I habitat(s) for which the SAC has been selected.</p>

<b>Table 8.3 Malahide Estuary SPA (004025)</b>	
<b>Qualifying Interests</b>	<b>Conservation Objectives (Generic)</b>
<ul style="list-style-type: none"> <li>• Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</li> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>• Pintail (<i>Anas acuta</i>) [A054]</li> <li>• Goldeneye (<i>Bucephala clangula</i>) [A067]</li> <li>• Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</li> </ul>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA and the Wetland habitat(s) in Malahide Estuary SPA.</p>

<ul style="list-style-type: none"> <li>• Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Knot (<i>Calidris canutus</i>) [A143]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	
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<b>Table 8.4 Rogerstown Estuary SAC (00208)</b>	
<b>Qualifying Interests</b>	<b>Conservation Objectives (Generic)</b>
<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> </ul>	<p>To maintain or restore the favourable conservation condition of Annex I habitat(s) for which the SAC has been selected.</p>

<b>Table 8.5 Rogerstown Estuary SPA (004015)</b>	
<b>Qualifying Interests</b>	<b>Conservation Objectives (Generic)</b>
<ul style="list-style-type: none"> <li>• Greylag Goose (<i>Anser anser</i>) [A043]</li> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>• Shoveler (<i>Anas clypeata</i>) [A056]</li> <li>• Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Knot (<i>Calidris canutus</i>) [A143]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	<p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA and the Wetland habitat(s) in Rogerstown Estuary SPA.</p>

### 8.3. Factors likely to give rise to potential impacts

8.3.1. The submitted Screening Report for AA (August 2020) states that although of a relatively small scale, the proposed development site is within 2km of four ecologically sensitive Natura 2000 sites that all fall within the same Water Framework Directive Water Management Unit (Donabate) as the proposed development site. The qualifying interests of these four designated sites are both directly and indirectly dependant on water quality. Given the nature and location of the proposed development, sources of potential impacts include:

- Impacts associated with contamination of surface and/or ground water during construction and/or operation; and
- Impacts associated with disturbance/habitat loss during construction and/or operation.

- 8.3.2. Owing that the sites are located within the same Water Framework Directive Water Management Unit as the proposed development site, it is assumed that there is a potential for source, pathway and receptor links.
- 8.3.3. The proposed development is within 2 kilometres of two SPAs designated for overwintering birds, with 16 species in total designated as Qualifying Interests for both sites. These species are highly mobile and almost certainly travel between the two SPAs. The AA Screening Report contains a summary of two separate Winter Bird Surveys carried out in the vicinity of the site and the general Malahide Estuary area. These surveys date from 2017/2018 and 2020. It is also noted that the Annex I species Golden Plover frequently feed within agricultural land in the vicinity of the roosting site at night along with several other species of Lapwing. Although the majority of the land within the proposed development footprint is unsuitable (rank grassland, scrub and built land) cropland, within and adjacent to the proposed development site there may be suitable areas for foraging overwintering waders or may be an impact on the species associated with disturbance and or loss of foraging habitat. Adhering to the precautionary principle the report acknowledges that further investigation in relation to the impacts of the proposed development on same are required (i.e. Stage 2 AA).
- 8.3.4. The report also highlights that *Allium triquetrum*, a species listed on Part (1) of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations of 2011, was recorded on site during the November site visit. Alien invasive plant species such as this have the potential to impact on ecological integrity if not controlled/managed or eradicated.

#### 8.4. **In-combination impacts**

- 8.4.1. In this case the primary source of any cumulative impacts concerns impact on ground and/or surface water quality and impacts on the foraging and/or roosting activity of overwintering waders.
- 8.4.2. A qualitative Hydrological and Hydrogeological Risk Assessment of the proposed development and a detailed Surface Water Management Plan had been prepared for the proposed development by AWN consultants which has informed this report (i.e. the revised AA Screening Report and NIS, August 2020). The Hydrological and Hydrogeological Risk Assessment concluded that indirect source pathway linkage



exist post construction between the site and the Malahide Estuary and Rogerstown Estuary Natura sites through the IW foul sewer via Portrane WWTW. However, I note the treatment plant has adequate capacity to accommodate future residential development on these proposed lands and is operating within license parameters. There is no likely pathway within the underlying (Lm and PI) aquifer.

8.4.3. The Screening Report notes that an AA was completed for the Donabate Distributor Road which concluded that the Phase 1 Distributor Road will not adversely affect the integrity of the Rogerstown Estuary or Malahide Estuary Natura 2000 sites having regard to the methodology proposed in the construction of the proposed road development, together with the proposed mitigation measures outlined. These mitigation measures included measures designed to ameliorate any impacts on water quality.

8.4.4. While not specifically highlighted in the AA Screening, I note that the Fingal County Development Plan and Donabate LAP identify objectives to develop walking and cycling routes around the estuaries / coast. These objectives were assessed as part of Donabate LAP Natura Impact Report and are not considered to give rise to adverse negative impacts, while noting that these projects themselves would be subject to screening for Appropriate Assessment.

## **8.5. Screening Conclusion and Likely Significant Effects on European sites**

8.5.1. The Screening Report concludes that it is not possible to exclude (on the basis of objective information and in the absence of specific prescribed precautionary/mitigation measures) that the proposed development, individually or in combination with other plans or projects, has the potential to have significant negative impacts on the following Natura 2000 sites:

- Rogerstown Estuary SAC (00208);
- Rogerstown Estuary SPA (004015);
- Malahide Estuary SAC (00205); and
- Malahide Estuary SPA (004025).

8.5.2. Following an assessment of same Screening Report I would therefore consider it reasonable to conclude that on the basis of the information on the file, that the proposed development, may be likely to have a significant effect on those European

Sites listed above. The potential for likely significant effects on the qualifying interests of these sites in relation to possible impacts on water quality, the spread of alien invasive plant species and disturbance to bird species therefore in my opinion needs to be considered further.

**8.6. Stage 2 Appropriate Assessment**

The submitted updated NIS (dated August 2020) highlights again that the four identified Natura 2000 sites are located within the same Water Management Unit as the proposed development. The qualifying interests of two of the sites (Rogerstown Estuary SPA (004015) and Malahide Estuary SPA (004025)) are primarily over-wintering waders, which may forage in the vicinity of the proposed development. There is therefore potential for the development to have indirect and/or secondary/residual impacts on the qualifying interests of these designated sites.

**8.7. Potential significant effects**

**Impact on Water Quality**

8.7.1. One of the primary sources of potential significant negative impacts on the conservation objectives of the qualifying interests of listed Natura 2000 sites is the potential for impacts on surface and/or ground water quality as a result of the proposed development. A Hydrological and Hydrogeological Qualitative Risk Assessment for the proposed development, completed by AWN, was submitted along with the application and the details from this have informed the revised NIS (August 2020). The assessment report examines hydrological sources, pathways, receptors and risk impacts (page 15, Table 3.1). Table 8.6 below examines both the impacts at Construction and Operational Phases on the Malahide and Rogerstown Estuaries and presents a summary of these findings:

<b>Table 8.6 Water Quality Pollution Linkage Assessment without mitigation</b>			
Source	Pathway	Receptors Considered	Risk of Impacts (without mitigation)
<u>Construction impacts</u>	Vertical pathway through subsoils	Bedrock aquifer (Locally important Lm and Poor PI)	Negligible risk of localised impact to the underlying bedrock aquifer.

<p>Unmitigated leak from construction vehicle</p>	<p>(low and moderate vulnerability)</p>		<p>No likely impact on status of aquifer. No perceptible risk of a temporary exceedance of statutory water quality concentrations at Natura 2000 sites.</p>
<p>Discharge to ground of runoff water with high PH from cement process.</p> <p><u>And</u> Unmitigated runoff containing a high concentration of suspended solids.</p>	<p>Indirect pathway through stormwater drainage to Rogerstown Estuary and Indirect pathway to Malahide Estuary through agricultural drainage.</p>	<p>Rogerstown and Malahide Estuaries SACs and SPAs.</p>	<p>No perceptible risk – The avg. effluent discharge for the site would equate to 0.05%* of the measured discharge at Portrane WWTW. This would not impact on overall water quality in the estuaries and therefore would not have an impact on the current Water Body Status (as defined in the WFD).</p>
<p><u>Operational Impacts</u> Foul effluent discharge to sewer</p>	<p>Indirect pathway to North-western Irish Sea through public sewer via Portrane WWTW.</p>	<p>North-western Irish Sea</p>	<p>No likely impact due to low</p>

Discharge to ground of hydrocarbons from car leaks	Indirect pathway through stormwater drainage to Rogerstown Estuary and indirect pathway to Malahide Estuary through agricultural drainage	Rogerstown and Malahide Estuary SACs and SPAs.	contamination loading and short-term nature of same.
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\*This assessment is based on the current licenced hydraulic capacity of the Portrane/Donabate WWTP.

8.7.2. As can be seen from Table 8.6 above based on the Conceptual Site Model (CSM) carried out by AWN in their assessment and the consideration of worst case scenarios during construction and operational phases (in the absence of mitigation measures) it can be concluded that there is no resultant direct or indirect source, pathway linkage from the proposed development which could change the current water regime (water quality or quantity) at the identified Natura 2000 sites, therefore likely significant effects as a result of these activities can be excluded from further consideration and no specific mitigation measures are required. It should be noted however that measures outlined in the Construction and Demolition Waste Management Plan and the Construction and Environmental Management Plan both completed by OCSC shall be implemented on site in line with good practice. These specific measures will provide further protection to the receiving environment.

### **Surface Water Management**

8.7.3. Surface water from the northern area of the proposed development site has the capability of draining via storm sewers towards Beaverstown stream/Rahillion Stream, and into Rogerstown Estuary. The south of the site drains into agricultural ditches through the Balcarrick Golf Course to the Ballalease Stream and onto the Malahide Estuary. Given the ecological sensitivities of the nearby Natura 2000 sites

a detailed Surface Water Management Plan (SWMP) was requested as part of the additional information request from Fingal County Council. This has been completed by AWN consulting, dated 18<sup>th</sup> August 2020. The report's main objective is to outline water management measures to be implemented by the contractor to ensure that work is carried out with minimal impact on the water environment. The SWMP has been appended to the revised NIS (August 2020) with specific measures outlined under Section 6 (page 8) including detailed and comprehensive measures to ensure the maintenance of water quality. The mitigation measures proposed can be summarised as follows:

- Keep clean water clean, by avoiding disturbance to natural drainage features, minimising any works in or around artificial drainage features and diverting clean surface water flow around excavations, construction areas and temporary storage areas.
- Collection of any drainage waters from works areas within the site that might carry silt or sediment and nutrients, and to route them towards stilling ponds to control diffuse release over vegetated natural surfaces. There should be no direct discharge to surface waters without monitoring and mitigation (if required).

8.7.4. Further mitigation measures are outlined in the CEMP for the site (completed by OCSC). The key mitigation measures relevant to the protection of water that should be compiled which throughout each phase of construction are summarised below:

- Minimise any change to the surface water and groundwater conditions within the site
  - prior to commencement of works site mapping of existing drainage will be undertaken and inspections will be completed to ensure streams/water courses are free from debris and blockages that may impede drainage. These inspections will also be completed on a sub-catchment basis as the construction works develop across the site to ensure they remain in their original pre-construction condition add minimise movement of water from one sub-catchment to another. Section 50 applications will be submitted to the OPW for approval for any culverting of drainage required.

- Avoid sensitive areas where possible by employing hydrological constraints (i.e. buffer zones)
  - there are no identified sensitive ecological or fisheries on the site, however there is hydrological connectivity with the Malahide Estuary . A 50m wide stream/river buffer is proposed for surface water protection and 15m adjacent to land drains. The setback distance from open water means there is no likely impact on downgradient habitats. It also allows adequate room for drainage mitigation measures to be properly installed upgradient of primary drainage features. This will allow attenuation of surface water to be more effective.
  - Where development occurs within 50m of an open water course, additional mitigation will be put in place to ensure maximum protection of stream or drainage ditch. The measures will include silt fences, silt bags, sedimats and treatment trains as necessary.
- Management of silt laden run off
  - All areas for temporary stockpiling will be identified in advance\_(outside of buffer zones). Stockpiles will be kept below 2 meters. Where soil is used for landscaping these piles will be seeded as soon as possible to minimise potential for dust blow off and sediment runoff.
  - Where stockpiling is required for any length of period then the application of a silt fence can be utilised.
  - temporary sumps, sediment ponds, sediment traps along the proprietary settlement systems such as silt buster will be considered to treat dirty construction water runoff prior to controlled release onto the natural vegetation surfaces/drains or open water.
  - Where swales are used, these should be kept shallow and designed to allow a max depth of 0.3m of standing water.
  - Works will be avoided in very wet weather and water bowsers will be employed during periods of very dry conditions.

- SuDs drainage control measures for surface water management will also be employed. These are summarised under Table A of page 11 of the SWMP.
- Accidental Spills and leaks and uncontrolled releases
  - site personnel are to be trained in spill response and there will be spill kits available at appropriate locations across the site.
  - SDS for all chemicals must be reviewed to confirm suitable handling procedures and contamination procedures are in place.
  - Generally, no bulk chemicals are to be stored in the construction area however if required these must be bunded in accordance with EPA guidelines.
  - Refueling of construction vehicles and the addition of hydraulic oils will take place in a designated area, where possible offsite.
  - major machinery repairs are to be undertaken off-site.
  - a designated concrete plinth that routes wheel washings to a designated soak away/percolation area is to be provided. These washings will not enter the site stormwater or drainage system.
- Management of wastewater
  - All wastewater effluent generated during the construction phase will be contained in portaloos or similar and disposed of appropriately by a licensed provider.

8.7.5. In addition to the specific measures outlined in the SWMP generic measures are also to be implemented as outlined on page 98 of the NIS.

## 8.8. Disturbance Impacts

8.8.1. Two potential sources of disturbance impacts have been identified in the NIS, these are:

- disturbance of overwintering waders in the vicinity during construction; and
- disturbance of overwintering waders through loss of foraging habitat in the vicinity of the Rogerstown Estuary SPA and the Malahide Estuary SPA.

- 8.8.2. The site is located approximately 1 kilometre from the Malahide Estuary (SAC, SPA) and almost 2 kilometres from the Rogerstown Estuary (SAC, SPA). Potential disturbance of birds utilising the Malahide Estuary has been considered in the Ecological Impact Assessment (dated August 2020) and separately in the report titled 'Assessment of Winter Bird usage of Habitats occurring at Lands located at Corballis East, Donabate, Co. Dublin' (dated April 2020), both reports completed by FERs. It was noted from both reports, which in turn informed the NIS, that the habitats between the proposed development and the Malahide Estuary are not utilised for foraging and/or roosting by any qualifying interests of the adjacent SPAs. Also I note that given the presence of the DDR between the proposed development and the Malahide Estuary, potential for disturbance to overwintering waders utilising the designation sites associated with construction of the proposed development is expected to be minimal.
- 8.8.3. Potential for disturbance, however minimal, will be mitigated against by the erection of hoarding around the perimeter of the site exposed to the estuary. The hoarding which is detailed on CCK Drawing no. 0921 PA2 015, titled Proposed Location of Construction Phase Hoarding, will be 2.4 meters in height and located as indicated around the periphery of the site.
- 8.8.4. Possible disturbance impacts through habitat loss were also examined in the NIS. In order to satisfy this requirement a comprehensive assessment of the use of the proposed development site and the immediate environs was undertaken during the period between November 2019 and March 2020. The details of same are contained in the winter bird survey document submitted with the application. There was no evidence observed of use of the subject site, or immediate surrounding environment by overwintering waders (including species of waders occurring within the nearby SPAs, but for which the SPA is not designated), in particular any species that are qualifying interests for the Rogerstown Estuary SPA and the Malahide Estuary SPA. Based on the surveys undertaken, foraging/roosting birds comprising qualifying interests of adjacent SPAs are not present within the proposed development footprint. In addition it was noted that much of the habitat occurring within the development footprint (largely rank grassland, scrub and built land/artificial surfaces) is wholly unsuitable for such species which have demonstrated a preference for managed grassland with a relatively short sward.



## 8.9. Impacts associated with Alien Invasive Plant Species

8.9.1. The presence of the invasive species Three-cornered Garlic/Leek (*Allium triquetrum*) on the site is noted. This species is listed on the Third Schedule of the 2011 European Communities (Birds and Natural Habitats) Regulations and is a species for which it is an offense to disperse, spread or otherwise cause to grow in any place. Failure to comply with the legal requirements set down within the regulations can result in either civil or criminal prosecution. I note the conclusions of the submitted NIS with regard to the potential spread of this species from the site, which is considered to be reasonable. The eradication of such infestation, in line with the recommendations of the Alien Invasive Plant Species Management and Control Plan (August 2020), is a mandatory requirement irrespective of proximity to any European Site and is not therefore regarded as a mitigation measure.

## 8.10. Conclusion

- 8.10.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 8.10.2. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that the proposed development may be likely to have a significant effect on 4 no. Natura 2000 sites, namely Rogerstown Estuary SAC (00208); Rogerstown Estuary SPA (004015); Malahide Estuary SAC (00205); and Malahide Estuary SPA (004025). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 8.10.3. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European sites which include Rogerstown Estuary SAC (00208); Rogerstown Estuary SPA (004015); Malahide Estuary SAC (00205); and Malahide Estuary SPA (004025), or any other European site, in view of the sites Conservation Objectives. Provided that all the mitigation measures outlined in the NIS and detailed in the associated documents (in particular the SWMP) and the erection of hoarding as specified in the CCK drawing no. 0921 PA2 015, are fully implemented, I consider it reasonable to conclude that the proposed development

would not adversely affect the integrity of the above referenced European sites in view of the sites' Conservation Objectives and that this conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## **9.0 Recommendation**

9.1. I recommend that permission be granted subject to conditions.

## **10.0 Reasons and Considerations**

10.1. Having regard to the location of the application site in an area zoned for Town Centre and Residential development under the Fingal County Development Plan 2017-2023, the pattern of development in the area, the planning history for the site and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenity of the area, would not detract from the character and setting of the adjoining protected structure, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 07<sup>th</sup> May 2020 and, as amended, by the further plans and particulars submitted on the 25<sup>th</sup> day of August 2020, and by the further plans and particulars received by An Bord Pleanála on the 17<sup>th</sup> day of November 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the

developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Block 2 shall be omitted from the proposed development and the area appropriately landscaped. A revised site layout plan showing these details shall be submitted to the planning authority for agreement prior to the commencement of development.

**Reason:** In the interest of railway safety and the proper planning and sustainable development of the area.

3. (a) The design of Block 1 shall accord with the revised plans and elevations received by the Planning Authority as additional information on 25<sup>th</sup> August 2020.

(b) Prior to commencement of development the applicant/developer shall submit a sample of the stone proposed for the ground floor external walls on the front elevation of Block 1 for the written agreement of the Planning Authority.

**Reason:** In the interest of protecting visual and residential amenities and the proper planning and sustainable development of the area.

4. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority the following:

(a) A detailed design for the civic plaza area which provides specific detail on the materials and finishes to be used at this location.

(b) The developer shall provide a piece of public art or architectural feature located in the plaza area, to be designed in consultation with the Public Art Co-ordinator of Fingal County Council.

**Reason:** In the interest of visual amenity and to comply with Objective DMS05 of the Fingal Development Plan 2017-2023.

5. The following requirements in relation to the preservation of the Smyths Public House protected structure (RPS no.0509) shall be carried out in full and strictly adhered to:

(a) Prior to the commencement of development the applicant shall submit for the written agreement of the Planning Authority a Method Statement and Temporary Works Design which addresses the impact of the development on the adjoining historical buildings including site clearance works within the curtilage of Smyths Public House (RPS no. 0509) and, if appropriate, interventions to ensure the protection of the aforementioned historic buildings.

(b) A full photographic written and drawn record of existing and any additional outbuildings uncovered during the monitoring of the site clearance works within the curtilage of Smyths Public House shall also be submitted to the planning authority for their records.

**Reason:** To ensure an appropriate standard of development/conservation and protect the character of the protected structure.

6. Prior to commencement of development the applicant shall submit a final landscape plan for the written agreement of the planning authority to include the following:

(a) A street plan which clearly demonstrates the constructed tree pits of 16 cubic metre in plan and section format, to include position of lamp standards and underground services. No street tree shall be located within 7 metres of lamps standards.

(b) Full details of permitted playground, including details of all play units to be provided, seating, signage, bins and play surfaces and boundary treatment.

The landscaping plan shall be implemented within the first planting season following completion of construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from

the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

7. A boundary treatment wall with a minimum height of 2.4 metres shall be constructed along the entirety of the eastern perimeter of the site. The height shall be measured from developers' side of the boundary. Precise details of this boundary treatment shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

**Reason:** In the interest of safety in the operation of the railway.

8. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting, cycle paths/street and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) and the proposed realignment of the junction at Main Street/Balcarrick Road including the proposed pedestrian crossing facility shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The details of pedestrian crossing facilities and associated infrastructure including any signalisation and associated ducting at the junction of Main Street/Village Link street shall be agreed with the planning authority in writing prior to commencement of construction.

(c) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works, and

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

9. Mitigation and monitoring measures outlined in the Natura Impact Statement (including construction phase hoarding as indicated on CCK Drawing No. 0921 PA2 015 and those outlined in the Construction and Environmental Management Plan), the Ecological Impact Assessment, the Alien Invasive Plant Species Management & Control Plan and the Surface Water Management Plan received by the Planning Authority as additional information on 25th August 2020 shall be implemented in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

10. The developer shall comply with the following requirements:

(a) All bathroom/ en suite windows shall be fitted and permanently maintained in obscure glass. The use of film is not permitted.

(b) No dwelling shall be occupied until all services have been connected and are operational.

(c) Each proposed house shall be used as a single dwelling unit.

**Reason:** In the interest of residential amenity.

11. Trees to be removed on site shall be felled in late summer or autumn.

Hedgerows to be removed shall be removed outside of bird nesting season.

**Reason:** In the interest of nature conservation.

12. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

13. No advertisement or advertisement structure shall be erected or displayed on the buildings (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

14. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

15. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

16. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services. The surface water drainage layout of the permitted development shall accord with Drawing no. C829-OCSC-XX-XX-DR-C-5501-S2-P05 received by the planning authority as additional information on 25<sup>th</sup> August 2020.

**Reason:** In the interest of public health.

17. The developer shall enter into water and/or wastewater connection agreements with Irish Water, prior to commencement of development. The location of the temporary foul pumping station shall be in accordance with the Irish Water Code of Practice for Pump Stations.

**Reason:** In the interest of public health.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:



- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;
- (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (c) Details of the implementation of appropriate mitigation measures as per the submitted Noise Impact Assessment submitted to the planning authority on 7<sup>th</sup> May 2020, for noise, dust and vibration, and monitoring of such levels;
- (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

19. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

21. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and public safety.

22. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

23. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the final landscaping scheme to be agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

24. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

25. The developer shall comply with all requirements of Iarnród Éireann in relation to boundary wall, security of the railway boundary, access, railway mounds and ditches, surface water, integrity of cutting, use of cranes adjacent to the railway boundary, wayleaves, overhanging, light spill, and informing future potential purchasers and / or tenants of possible noise and vibration that might be expected due to railway operations and maintenance.

**Reason:** In the interest of safety and the proper planning and sustainable development of the area.

26. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

27. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development

29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation

provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

30. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Máire Daly

Planning Inspector  
23<sup>rd</sup> July 2021