



An
Bord
Pleanála

Inspector's Report ABP-309135-21

Development

Planning permission is sought for 73 dwelling units together with all associated site works and services.

**NIS accompanies this application*.*

**Significant further information submitted to Planning Authority on the 30th day of September, 2020*.*

Location

Lands to the East of Rowlestown and situated between Iostaín Bhaile an Rólaigh & the Broadmeadow River, Lispopple, County Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F19A/0505.

Applicant

Danhill Unlimited Company.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal	First Party
Appellant	Danhill Unlimited Company.
Observers	None.
Prescribed Bodies	1. Department of Culture, Heritage & the Gaeltacht.
Date of Site Inspection	19 th day of March and the 17 th day of April, 2021.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site consists of an irregular shaped parcel of agricultural tillage land that forms part of two larger fields and has a given 6.02ha site area with this including the Broadmeadow riverbank lands on the southern portion of the site. It is located on the eastern fringes of the village of Rowlestown, in north Fingal, c5.7km to the northwest of the centre of Swords and c7.5km to the east of the centre of Ashbourne in County Dublin. At its nearest point, the north easternmost portion of the Church Road (Rowlestown Road) roadside boundary is located c1.1km, by road to the R125 which lies to the south west.
- 1.2. The site extends from the southern side of Church Road towards the banks of the Broadmeadow River. When the lands associated with the banks of the Broadmeadow River are excluded the site area on which the proposed residential development is sought has a given 4.44ha area.
- 1.3. Bounding the north western corner of the site is a detached dormer style bungalow and neighbouring this property as well as extending to where it adjoins with part of the western boundary of the site is the low-density residential scheme of 'Rowlestown Meadows' which consists of seventeen detached 2-storey dwellings on generous garden plots. To the north west of the site there are a number of *ad hoc* detached dwellings ranging from single storey in terms of the nearest dwelling to 2-storey in terms of built form.
- 1.4. Of note the 'Lispopple Bridge', a Protected Structure (RPS Ref. No. 336) is located east of the site. There is also a pumping station located on the south eastern portion of the site.
- 1.5. For the most part the site boundaries are characterised by mature indigenous hedgerows and trees with access onto the restricted in width, undulating in horizontal and vertical alignment, heavily trafficked Church Road by way of an agricultural type of entrance. At this point the road has a posted speed limit of 50kmph.
- 1.6. The settlement of Rowlestown could be described as a very modest sized village that has a spread-out character and pattern of development. It contains a small number of amenities and services including public transport stop, a community hall, a primary

school, creche, a badminton club through to a Petrol Station that includes a convenience shop.

2.0 Proposed Development

2.1. The proposed development as originally submitted to the Planning Authority on the 25th day of October, 2019, comprised of 73 dwelling units (55 no. 3-bedroom and 18 four bedroom) with 7 of these dwellings indicated as being allocated to provide for social housing under Part V; with access via an upgraded access located on the northern boundary of the site onto Church Road; the provision of open spaces; internal access roads; parking areas; landscaping together with all associated site development works and services. The accompanying Planning Application form indicates that the proposed water supply is via public mains; that wastewater management/treatment is via public sewer; and, that surface water disposal is via watercourse. This application is accompanied by the following:

- Covering Letter
- Part V Proposal
- Site Design Concept

2.2. On the 30th day of September, 2020, the Planning Authority received the applicant's **further information response**. On foot of this response the applicant was requested for revised public notices on the 2nd day of October, 2020, due to the significant nature of this information and the revisions it included. Confirmation of the new public notices was received by the Planning Authority on the 15th day of October, 2020, from the applicant.

2.3. The revised scheme comprised of a reduction in housing units from the originally proposed 73 to 59 on a revised site layout. The design of the houses in terms of their built form through to appearance have also been amended with revised numbers also provided for the now proposed 59 housing units. The overall design setting for the proposed dwellings has been qualitatively improved alongside improved widths in the internal roads, revised road frontage treatment, new landscaping scheme, improved boundary treatments, improvements to the playground area, through to drainage

improvements made. The further information response is accompanied by the following documents:

- Covering Letter
- Revised Drawings
- Archaeological Test Excavation Report
- Flood Risk Report
- Soakaway Investigation Report
- HQA Report which includes the Housing Schedule.
- Bat Assessment
- Construction Environment Management Plan
- Appropriate Assessment Screening Report
- Ecological Impact Assessment
- Natura Impact Assessment
- Construction & Waste Management Plan
- Arboricultural Report
- Geophysical Survey

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 8th day of December, 2020, the Planning Authority decided to **refuse** planning permission for the following stated reasons:

“1. Having regard to the scale and location of the proposed development on the edge of the rural village of Rowlestown, taking account of:

- *Regional Policy Objective 4.83 of the Regional Spatial and Economic Strategy for Eastern and Midlands Area 2019- 2031, which seeks to ‘support the consolidation of the town and village network to ensure that*

development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans’,

- *The policy of the Fingal Development Plan 2017-2023 for villages which states that ‘villages will be managed to ensure these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns’ and that ‘future growth in commuter villages should be curtailed or safeguarded so that they do not act as a catalyst to facilitate continuing expansion of unsustainable growth patterns’,*

it is considered that when taken in the context of existing and permitted development in the vicinity, the proposed development would be contrary to the settlement hierarchy set out in the Regional Spatial and Economic Strategy for the region and the settlement strategy of the Fingal Development Plan 2017-2023 and as such, would be contrary to the proper planning and sustainable development of the area.

2. *It is considered that the proposed development of 59 houses on the subject site, taken in the context of existing and permitted development in Rowlestown would result in rapid uneven growth of the Rural Village, which taking account of:*

- *National Policy Objective (NPO 15) of the National Planning Framework which seeks to “support the sustainable development of rural areas by ...managing the growth of areas that are under strong urban influences to avoid overdevelopment”;*
- *Regional Policy Objective RPO 4.83 which seeks consolidation of rural villages,*
- *RV land use zoning objective of the Fingal Development Plan 2017-2023 which seeks to “Protect and promote the character of the Rural Village”*
- *Objective PM18 of the Fingal Development Plan, 2017-2023 which seeks to implement the village design framework,*
- *Objective RF04 which seeks to manage the development of each village, within the RV boundaries having regard to Government Guidelines set down in the Sustainable Residential Development in Urban Areas, 2009,*

would result in development of the village beyond its assimilative capacity as articulated in national, regional, county and local policy. The development if permitted would negatively impact on the character of the village, place excessive pressure on local services, contribute to unsustainable travel patterns, would not be commensurate with the existing built environment and would therefore be contrary to the policy for rural villages as set out in the Regional Spatial and Economic (RSES), and the Fingal Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

3. *Due to the peripheral site location, it is unlikely adequate provision can be made for walking, cycling or public transport infrastructure between the subject site and Swords, the lack of connectivity is likely to give rise to an over reliance on private car use for both local and non-local trips across all journey purposes contrary to national policy, the provisions of the Regional Spatial & Economic Strategy and the Fingal County Development Plan, in particular Objective SS03 to prevent car dependent urban sprawl.*
4. *Taking account of the suburban character of the proposal at the edge of the small village of Rowlestown, the proposed development would negatively impact on the rural character of Rowlestown, would not contribute to the consolidation or to the enhancement of the village and when considered in combination with recently permitted development, would contribute to excessive growth of the village within a short period of time. The proposal would therefore be contrary to the Sustainable Residential Development in Urban Areas guidelines issues by the Minister under Section 28 of the Planning and Development Act, 2000, as amended.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer’s report** having examined the applicant’s further information and having considered the significant changes that had recently occurred in terms of planning policy and provisions. In particular the application of the national and regional spatial provisions as set out in Variation No. 2 of the Fingal Development Plan, 2017 to 2023. It was considered that the changed local planning context gave

rise to fundamental issues with the principal of this residential development at this location due to the variation amending the Core Strategy and the provisions of the Development Plan so that it aligns with the Regional Spatial & Economic Strategy, 2019 to 2031.

It is noted that the village of Rowlestown is within the Metropolitan Area and is considered to be a commuter village located close to Dublin city where future growth should be curtailed or safeguarded so that it does not act as a catalyst to facilitate continuing expansion of unsustainable growth patterns. As such new development will be channelled to where there is infrastructural capacity already available along existing or proposed high quality public transport in a phased manner alongside the delivery of appropriate physical and social infrastructure on lands where there is an LAP or Masterplan in place.

It indicates that Variation No. 2 amends the Core Strategy and the provisions of the Development Plan so that it aligns with the Regional Spatial & Economic Strategy, 2019 to 2031.

Concern was raised that due to the edge of village location it was unlikely that adequate provision could be made for walking, cycling or public transport infrastructure between it and the nearest major settlement. Thus, resulting in a development with an over reliance on private car use across all journey purposes.

Regard was had to recent planning decisions for similar developments in this area.

In conclusion, it was considered that the outstanding issue of density and phasing of development on the subject site and the assessment of its impact on the wider village context has not been satisfactorily addressed. Furthermore, it was considered that the development could not be adequately catered for within this rural village at this time due to it contravening local, regional, and national planning policy. This report concludes with a recommendation for **refusal**.

On the 26th day of June, 2020, the Planning Authority in a manner that accorded with Article 33(3) of the Planning & Development Regulations, 2006, as amended, to allow a three-month **extension of time** up to and including the 30th day of September, 2020.

The **initial Planning Officer's report** concluded with a recommendation for further information which can be summarised as follows:

- Item 1: Seeks a revised residential scheme of a lower density.
- Item 2: Primarily seeks a revised scheme with internal roads of 5.5m in width throughout the development and the setback a minimum 4.75m from the centre of Rowlestown Road.
- Item 3: Seeks landscaping improvements, a tree survey, pedestrian link to the riverside walk, revised car parking provision, inclusion of a revised playground, improved drainage measures through to improved boundary treatments.
- Item 4: Requires a Screening Report for Appropriate Assessment.
- Item 5: Requires an Ecological Assessment.
- Item 6: Requires an Archaeological Assessment.
- Item 7: Requires a Flood Risk Assessment.
- Item 8: Requires drainage improvements.
- Item 9: Requires improvements to the external finishes of the dwellings.
- Item 10: Requires a Construction and Demolition Waste Management Plan.
- Item 11: Requires a Construction Environmental Management Plan.
- Item 12: Requires demonstration that a good acoustic design has been followed for the proposed development given the site is located within the Dublin Airport Assessment Zone.

3.2.2. Other Technical Reports

- **Parks:** Final Report. No objection subject to the inclusion of a number of recommended conditions in the event of a grant of permission. The conditions range from tree protection; landscaping details, revised SuDS details; omission of car parking along open spaces; phasing and delivery of open spaces through to taking in charge.
- **Water Services:** Final Report. No objection subject to the proposed basins provided be of an acceptable amenity and aesthetic value with the details to be

agreed prior to construction with the Planning Authority. On the matter of flood risk no objection is raised.

- **Environment & Water:** Final Report. No objection subject to prior to commencement the applicant submits an updated Construction and Demolition Waste Management Plan alongside that the applicant clarifies export/importation of soil and stone materials for the site.
- **Housing:** No objection, subject to safeguards relating to Part V.
- **Transportation:** Final Report. No objection, subject to safeguards.
- **Archaeology:** Final report. No objection, subject to safeguards.
- **Environmental Waste Management:** No objection, subject to safeguards.
- **Community, Culture & Sports:** No objection, subject to safeguards.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection, subject to safeguards.

3.3.2. **Inland Fisheries Ireland:** No objection, subject to safeguards including but not limited to the provision of and implementation of a comprehensive surface water management measures to prevent any pollution of the Broadmeadow catchment as well as that all construction accords with a detailed and specific Construction Environmental Management Plan.

They further advised that it is essential that local infrastructure has the capacity to cope with the increased foul and storm water generated by the proposed development.

3.3.3. **Irish Aviation Authority:** No observations to make.

3.3.4. **Dublin Airport Authority:** No objection subject to safeguards.

3.4. Third Party Submissions

3.4.1. During the course of the Planning Authority's determination of this application a number of submissions were received, most from individuals residing in the surrounding area, and one Grant Thornton who are Joint Receivers of the adjoining development to the west subject of the grant of permission P.A. Ref. No. F14A/0274. Unlike the other submissions received the later indicates support for the proposed

development and indicate that they do not consider that the proposed development would negatively affect their development. In addition, the submissions received by the Planning Authority included one from Rowlestown National School Parents Association and the Rowlestown Residents Association. These alongside other the other 3rd Party submissions received raise a variety of similar issues in relation to the proposed development including:

- Procedural concerns are raised in relation to the adequacy of the public notices and the information provided with the original application.
- The scheme as proposed and revised being in excess of that permitted for this location in the LAP and not deemed to be a sustainable scale of development.
- The Rowlestown LAP provided for this site as Development Site 6 where it allowed a maximum of 30 houses and a riverside park. The current application is for a suburban development with no development or landscaping shown for the designated riverside park.
- This development would adversely alter the rural nature of its setting.
- The population of Rowlestown would be increased by way of this development if permitted from 255 persons to 505 persons contrary to the population targets for the village and contrary to the Development Plan's Core Strategy.
- The developer is alleged to own two dwellings adjacent to the site which in a derelict state, subject to anti-social behaviour, illegal dumping, and other nuisances.
- An appropriate buffer between the proposed development and existing residential development sought.
- Appropriate landscaping is required of the overall development particularly as appreciated from Church Road.
- The scheme does not adequately address the established amenity of properties in its vicinity with the revised scheme including first floor windows that would result in direct overlooking of properties existing and in construction along the western boundary.

- Church Road is not of a standard to accommodate the scale of development sought under this application.
- The road infrastructure as it stands struggles to deal with the volumes of traffic at peak times and would be unable to accommodate the additional traffic this development would generate. There are no footpaths and the roads in the vicinity of the school for example are restricted in their widths.
- Agriculture and other types of heavy vehicles have resulted in the road edges being damaged with these deteriorating over recent years leaving few using these roads to walk or to cycle.
- Currently cars have to pull in to pass one another due to the restricted width of the road serving the site and in the vicinity of the site.
- There is little spare capacity in Rowlestown National School to accommodate the additional students that would result from a sudden increase in the population of the village as this school is close to capacity. There are also two developments nearing completion that will further reduce the capacity of the school.
- This area has problems with surface water drainage and flooding is an issue. On this point it is noted that in recent times Church Road has been impassable following heavy rain and the capacity of the existing foul water system to accommodate further development is a cause for concern.
- The capacity of the pumping station which was constructed to accommodate the increased development appears to be not fully operational or adequately connected to a larger system or treatment plant.
- The pumping station adjacent to 'Kinsella's Bridge' requires frequent maintenance and disposal of waste.
- The proposed development has the potential to give rise to overlooking and diminished amenities for properties in its vicinity.

4.0 **Planning History – Recent & Relevant**

4.1. **Site**

4.2. **None.**

4.3. Setting

4.3.1. Adjoining site to the North West

- **P.A. Ref. No. F20A/0483:** Planning permission was **granted** subject to conditions for a development consisting of changes to house design to that previously granted (Ref No: F19A/0204), consisting of omitting windows to the side of the dwelling and all associated works.
- **P.A. Ref. No. F19A/0204:** Planning permission was **granted** subject to conditions for a development consisting of an alternative house design to that previously granted under P.A. Ref. No. F16A/0238 and P.A. Ref. No. F15A/0439.

4.3.2. In the Vicinity

- **ABP Ref. No. 309915 (P.A. Ref. No. F21A/0034):** There is a recently lodged 1st Party Appeal seeking the Board to overturn the Planning Authority's decision to refuse planning permission for the construction of 40 no. houses together with all associated site works.
- **ABP Ref. No. 308526-20 (P.A. Ref. No. F19A/0490):** A 1st Party Appeal is concurrently with the Board for its determination seeking that the Planning Authority's decision to refuse planning permission for 26 2-storey dwelling units is overturned. The given address of the site is the lands located between Church Road and the Broadmeadow River opposite Rowlestown Drive, Rowlestown, Co. Dublin. At the time, this report was being prepared no decision had been made. At its nearest point it is located c330m to the west of the appeal site as the bird would fly. At the time, this report was being prepared no Board decision had been reached.
- **ABP Ref. No. 306955-20 (P.A. Ref. No. F19A/0626):** On appeal to the Board planning permission was **refused** for a development consisting of 85 dwelling units and a creche. The given address of the site is the Townland of Rowlestown West, Rowlestown, Co. Dublin. At its nearest point it is located c640m to the north west of the appeal site, as the bird would fly.

The Boards decision is dated the 16th day of October, 2020; and the stated reasons and consideration read:

1. *Having regard to the location of the proposed development in the rural village of Rowlestown and Regional Policy Objective 4.83 of the Regional Spatial and Economic Strategy for Eastern and Midlands Area 2019- 2031, which seeks to ‘support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans’ and the Fingal Development Plan 2017-23 policy for villages in S2.8, which states that ‘villages will be managed to ensure these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns’ and Section 5.2 which states that ‘future growth in commuter villages should be curtailed or safeguarded so that they do not act as a catalyst to facilitate continuing expansion of unsustainable growth patterns’, it is considered that the proposed development would be contrary to the settlement hierarchy set out in the Regional Spatial and Economic Strategy for the region and the Development Plan policies for the area and as such, would be contrary to the proper planning and sustainable development of the area.*
 2. *Having regard to the sensitive nature of the site and its location in the village of Rowlestown, its proximity to Rowlestown House, a protected structure, and its relationship to the Architectural Conservation Area, it is considered that the proposed development, by reason of layout and design, would seriously detract from the built heritage of the village and from Rowlestown House and the Architectural Conservation Area, would seriously injure the visual amenities of the area, and would, therefore, be contrary to the proper planning and development of the area.*
- **ABP Ref. No. 306182-19:** An application was made under Section 4(1) of the Planning & Development (Housing & Residential Tenancies Act, 2016) for 130 no. houses, a creche together with all associated site development works and services. This development was granted permission subject to conditions on the 9th day of April, 2020. The given address of the site is Rowlestown, Church Road and Rowlestown Drive, Rowlestown, East, Rowlestown, Co. Dublin. At its nearest point it is located c50m to the north west of the appeal site, as the bird would fly.

5.0 Policy & Context

5.1. EU Context

- EIA & SEA Directives
- European Communities (Birds & Natural Habitats) Regulations, 2011.

5.2. National Policy Provisions

5.2.1. Project Ireland 2040 - National Planning Framework (NPF), includes:

One of the national core principles to guide the delivery of future housing, at every level of governance, is to tailor the scale and nature of future housing provision to the size and type of settlement.

Relevant objectives include National Policy Objective 15 which seeks to support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

Chapter 4 of the NPF deals with the matter of making stronger urban places and sets out a range of objectives which it is considered will assist in achieving this. In this regard, Objective 13 provides that in urban areas, planning and related standards, including in particular building 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.

Chapter 6 of the NPF also includes specific objectives to do with homes and communities. It sets out 12 objectives including:

Objective 27: Seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities.

Objective 33: Seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale relative to location.

Objective 35: Seeks to increase densities in settlements.

5.2.2. Ministerial Guidance

The following Section 28 Ministerial Guidelines and other national policy documents are relevant:

- The Urban Development and Building Height - Guidelines for Planning Authorities (2018).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DoEHLG, 2009).
- The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht, and the Islands 1999.

5.2.3. Other

- Framework & Principles for the Protection of the Archaeological Heritage, 1999.

5.3. Regional Policy

5.3.1. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.

This is a strategic plan which identifies regional assets, opportunities and pressures as well as sets out appropriate policy responses in the form of Regional Policy Objectives (RPO's). It provides a framework at a strategic level for investment to better manage spatial planning and economic development to sustainably grow the Region to 2031 and beyond. Of relevance to the development sought under this application is the following objective:

RPO 4.83: Support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level, and pace in line with the core strategies of the county development plans.

Section 4.8 deals specifically with Rural Places, Towns, Villages, and the Countryside.

It recognises that this region contains: *“some of the fastest growing communities in the country and the long-term trend is for residential development moving further*

outwards from Dublin, with significant growth in many of the small towns and villages in the peri-urban area surrounding the city leading to an increase in car-based long-distance commuting. At the same time, an overall lack of adequate housing supply to meet a growing population has resulted in affordability issues and increasing homelessness, with a resulting negative impact on quality of life and regional competitiveness”.

5.4. Local Policy

5.4.1. Development Plan

Fingal County Development Plan 2017-2023 is the operative plan for the site and its setting under which it is subject to the ‘RV’ – ‘Rural Village’ zoning objective. This objective seeks to: *“protect and promote the character of the Rural Village and promote a vibrant community in accordance with an approved Local Area Plan, and the availability of physical and community infrastructure”* and the vision for these lands is to: *“protect and promote established villages within the rural landscape where people can settle and have access to community services. The villages are areas within the rural landscape where housing needs can be satisfied with minimal harm to the countryside and surrounding environment. The villages will serve their rural catchment, provide local services and smaller scale rural enterprises. Levels of growth will be managed through local area plans to ensure that a critical mass for local services is encouraged without providing for growth beyond local need and unsustainable commuting patterns”.*

Rowlestown is a Village in the metropolitan area in the Development Plan and the Chapter of the Development Plan pertaining to the Core Strategy sets out that there are four villages in the Metropolitan Area. It indicates that these, complement and support higher order settlement centres located on the edge of the gateway and that they will be managed to ensure these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns.

Objectives for the development of villages are set out in Chapter 5, Rural Fingal, in the Development Plan. With the village itself including an area designated as an Architectural Conservation Area.

Objective SS01 of the Development Plan seeks to consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages as advocated by national and regional planning guidance.

Objective PM18 of the Development Plan seeks to implement the existing Village Design Frameworks prepared as part of the Local Area Plans for Ballyboghil, Garristown, Naul, Oldtown, Rivermeade and Rowlestown.

Objective DA07 of the Development Plan seeks to strictly control inappropriate development and also requires appropriate noise insulation within the Outer Noise Zone.

Objective SW07 of the Development Plan seeks to implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated version of these guidelines. A site-specific Flood Risk Assessment is required for lands identified in the SFRA, which includes areas situated in Rowlestown.

Chapter 12.5 provides Design Criteria for Rural Villages and Rural Clusters.

5.4.2. **Variation No. 2, adopted on the 19th day of June, 2020.**

This Variation is particularly relevant to the context of this appeal before the Board. It seeks the alignment of the Development with the National Planning Framework and the Regional Spatial & Economic Strategy. It sets out significant amendments to the Development Plan's written statement and Maps. Chapter 1 sets out that where any objectives contained within the Development Plan are considered to be materially inconsistent with those of the National Planning Framework, the Regional Spatial and Economic Strategy of the Specific Policy Requirements of Guidelines issued under Section 28 of the Act the aforementioned documents shall take precedence. It also sets out that future growth will take place in accordance with an overarching hierarchy of settlement centres with each identified to accommodate an agreed quantum of future development appropriate to its respective position in the hierarchy.

Of particular note are the following objectives:

Objective SS01: Seeks to consolidate the vast majority of the County's growth into strong and dynamic urban centres of the Metropolitan Area while

directing development in the core to towns and villages, as advocated by national and regional planning guidance.

Objective SS01a: Seeks to support the implementation of and promote development consistent with the National Strategic Outcome of Compact Growth as outlined in the NPF and RSES.

Objective SS01b: Seeks to consolidate the existing urban footprint by ensuring 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs; and 30% of all new homes within targeted existing built-up areas in order to achieve compact growth of urban settlements as advocated by the RSES.

Objective SS02: Seeks to ensure that all proposed residential developments accord with the County's Settlement Strategy and are consistent with Fingal's identified hierarchy of settlement centres.

Objective SS02a: Indicates that development will be permitted in principle on lands where there is a LAP or Masterplan in place and only when these lands are substantially developed will permission be granted without such a framework.

Objective SS02b: Indicates that new residential development will be focused on appropriately zoned lands within the County, within appropriate locations proximate to existing settlement centre lands where infrastructural capacity is readily available, and they are along an existing or proposed high quality public transport corridors and on appropriate infill sites in the town centres in a phased manner alongside the delivery of appropriate physical and social infrastructure.

Objective SS03: Seeks to identify lands for residential development in order to achieve the housing and population targets set out in the Core Strategy with a focus on urban regeneration and compact growth while ensuring that excess lands surplus to this specific requirement are not identified, in order to prevent fragmented development, uneconomic infrastructure provision and car dependent urban sprawl.

Objective SS03a: Seeks to support the implementation of and promote development consistent with the National Strategic Outcome of Compact Growth as outlined in the NPF and the Regional Strategic Outcome of Compact Growth and Regeneration as set out in the RSES.

Objective SS12: Promotes key towns of Swords and the Metropolitan Area of Blanchardstown, respectively, as Fingal's Primary growth centres for residential development in line with the County's Settlement Hierarchy.

Objective SS15: Seeks to strengthen and consolidate existing urban areas adjoining Dublin City through infill and appropriate brownfield development.

Objective SS16: Achievement of higher densities in urban areas where in keeping with the character and form of existing residential communities or otherwise appropriate to their context.

In relation to identified Growth Villages in the Metropolitan Area with the list including Rowlestown it indicates that their future development needs careful consideration and that their growth needs to be managed to ensure these centres do not expand rapidly, putting pressure on services, the environment and creating the potential for unsustainable travel patterns. It refers to the objectives set out in Chapter 5 of the Development Plan.

- 5.4.3. I note that the Rowlestown LAP, which included a Framework Plan has now expired. This plan indicated that new development should strengthen the built form and distinctive character of the village. It identifies 11 no. development areas within the RV zoned area of the village centre and considered their development potential. The appeal site is identified as Area No. 6. An objective of the LAP is that development within the identified areas shall take place in a coordinated manner, adhering to the development parameters set out for each development area.

5.5. Natural Heritage Designations

- 5.5.1. The site does not form part of, nor does it adjoin or neighbour any European designated site. The nearest European sites as the bird would fly are:

- Malahide Estuary Special Area of Conservation (Site Code: 000205) which is located c5.7km to the south east of the appeal site.
- Malahide Estuary Special Protection Areas (Site Code: 004025) which is located c6.2km to the south east of the appeal site.
- Rogerstown Estuary Special Area of Conservation (Site Code: 000208) which is located c6.4km to the north east of the appeal site.
- Rogerstown Estuary Special Protection Areas (Site Code: 004015), which is located c7.2km to the north east of the appeal site.

5.6. EIA Screening

5.6.1. Having regard to the Class of development described under Section 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001, as amended:

Construction of more than 500 dwelling units

Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

With the proposed development sought under this application initially consisting of planning permission for the construction of 73 housing units on a site of 6.02ha in its given area I consider that this is below the area threshold and number of units set out in this threshold as similarly is the construction of 59 housing units on a site of 6.02ha as amended under the applicant's further information response.

As per section 172(1)(b) of the Planning and Development Act 2000, as amended, an EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the said Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment.

For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination of the proposed development as originally submitted and also as revised by way of further information.

I consider that there is significant lateral separation distance between the site and the nearest European site having regard to the nature of the development proposed and despite the development works being confined to a parcel of land c4.4/4.3ha in area to the north of the bank of the Broadmeadow River, outside of an area identified for potential risk, these lands are upgradient of the said river and this river connects into the Malahide Estuary SAC and SPA.

On preliminary examination the potential for significant effects on the environment can be ruled out and therefore, there is no need for an EIA and a screening determination in this instance.

5.7. Built Heritage

- 5.7.1. This appeal site lies c250m to the west of 'Lispopple Bridge' (RPS Ref. No. 336). This historic bridge which dates to c1775 to 1825 crosses the Broadmeadow River is also listed under the NIAH (Ref. No. 11327002) where it is given a 'Regional' rating and its categories of special interest are listed as 'Architectural' and 'Technical'. There is potential for the proposed development, if permitted, to be visible from this bridge but the lateral separation distance together with the area set aside for a Riverside Park alongside the potential for improved boundary treatments by way of condition the impact that would arise would be limited given that the development would form part of the view towards the village.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of this 1st Party Appeal can be summarised as follows:
- Procedural concerns are raised in relation to the Planning Authority's handling of this application, in particular the significant range of items requested by the Planning Authority by way of further information and for the proposed development then to be refused.
 - Reference is made to the reasons given by the Planning Authority to refuse permission.

- During the time, this application was with the Planning Authority the local planning provisions changed resulting in a development which was at the time of submission deemed to be acceptable in principle to one that was no longer deemed to be so.
- The revisions requested by the Planning Authority included a reduction in density and the scheme. It is now considered that the low-density scheme, its suburban character, to be out of keeping with the pattern and grain of existing development in the village. This low density is considered to be unsustainable.
- There is a need to support rural communities alongside ensuring that they remain vibrant and self-sustaining through the facilitation of genuine rural generated housing need.
- The now expired Rowlestown LAP required that new development strengthen the built form and character of the village.
- Rowlestown is a growing settlement centrally located between Swords and Ashbourne. It is located alongside the R125 that links these two major settlements. The site is also within easy reach of Dublin Airport and public transport.
- The Planning Authority alleges that the proposed development combined with other approved developments including that granted by the Board under ABP Ref. No. 306182 would put significant strain on services and the environment alongside give rise to unsustainable travel patterns. Yet Rowlestown is well served and self-sustaining in terms of social infrastructure and the additional population would add to critical mass which would better supports services rather than overwhelm them.
- There are no engineering or environmental strain on services or ecology arising from the proposed development.
- This development would offer an alternative to rural one-off housing.
- The village of Rowlestown is one of the villages identified as being in the metropolitan area and is considered a commuter village.
- In the absence of Rowlestown there would be 14 to 15km between Swords and Ashbourne. In this regard, it is argued that properly placed villages of scale interspersed between towns are required to support the viability of public transport services and properly sized settlements are required to support the viability of public transport services.

- The subject site was one of the areas identified in the LAP for development, i.e., Area 6, with it to be sequentially developed after Area 5 which is currently under construction.
- There are road improvements proposed in the vicinity of the site as well as permeability for pedestrians and cyclists along the Broadmeadow River. The subject site is not peripheral to these improvements and the proposed development closely follows the Village Development Framework Plan.
- This development would be situated adjacent to the riverside park.
- The applicant is the legal owner of significant road frontage on both sides of Rowlestown Road extending to the east from the village centre to nearby Lispopple Cross. This frontage can be improved and made safer for cyclists and pedestrians.
- The applicant has provided a foul sewer pumping station to serve the entire village expansion envisaged in the LAP and Village Development Framework on their lands without payment or compensation from the Council and now the applicants will not benefit from this infrastructure whereas other applicants will.
- This development would give rise to a significant area of public parkland as well as providing a significant length of road widening and footpaths along Rowlestown Road.
- An overview of housing permitted in Rowlestown is provided and it is contended that it indicated that the village has somewhat stagnated more than grown rapidly in the last decade.
- This development by reason of its density, pace and scale would contribute towards the consolidation and sustainable phased growth of Rowlestown in a manner consistent with the Sustainable Residential Development Guidelines.
- Reference is made to a decision by the Board under ABP Ref. No. 307103-20.
- The subject lands are serviced and within the footprint and spatially sequential in accordance with the Rowlestown VFDP and are considered therefore to be Tier 1 lands that should carry a priority for delivery to meet the current deficit in housing provision to meet Rebuilding Ireland targets.
- The Rowlestown LAP made a provision of 30 housing units on these lands.

- The provision of 73 or 59 housing units on this site upon completion of the adjacent development would not significantly undermine the country's settlement hierarchy or the proposed pattern of growth in this settlement.
- The Planning Officer incorrectly refers to a 4% population growth factor added to Metropolitan Villages like Rowlestown. The correct figure is contended to be 5%. It is argued that this 5% figure is vague in that it is unclear if this is over the lifetime of the plan, if it is per annum or if it is to be carried through to the NPF strategic period.
- This development can be phased over a five-year period.
- The Board is requested to have regard to Regional Policy Objective 4.83.
- It is requested that the Board consider the original proposal or as amended by way of the further information. It is contended that both are compatible with local, regional, and national planning policy provisions.
- All environmental, ecological, heritage, architectural and engineering issues have been resolved.
- The Board is requested to grant permission subject to conditions.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Board is requested to uphold its decision.
- Taking account of the location, scale, and character of both the site and of Rowlestown village, as reflected in the settlement hierarchy consideration must be given in the review to:
 - i. The potential for this proposal to contribute to expansion of unsustainable growth patterns.
 - ii. Car dependent urban sprawl.
 - iii. Uneven growth of the village due to the peripheral nature of the site.
 - iv. The exceedance of the assimilative capacity of the social and built character of the area through to the excessive level of growth within this area in a short period of time.

- The grounds of appeal fail to reconcile the implications of the continued unfettered growth of this village with the proper planning and sustainable development of this rural commuter village.
- In the event that this appeal is successful it is requested that appropriate provisions be made to apply the Council's Section 48 Development Contribution Scheme by way of condition.

6.3. Observations

6.3.1. On the 22nd day of March, 2021, an observation was received from the Department of Tourism, Gaeltacht, Sport and Media. It can be summarised as follows:

- The site is located on the north bank of the Broadmeadow River c6.7km upstream of where this watercourse discharges into the Malahide Estuary SAC and SPA. It is therefore hydrologically connected to these European sites.
- Pollution entering the Broadmeadow River from the development during either the development phases of the proposed development or during the operational phases could relatively easily be carried downstream and have detrimental impacts on the Qualifying Interests or Special Conservation Interests for which these European sites are designated.
- The foul sewage from the proposed development is to be routed to the Swords Wastewater Treatment Plan which has sufficient capacity to suitably treat it before release into the Malahide Estuary and surface water run-off is to be limited to green land rates by the installation of a Sustainable Drainage Systems (SuDS) incorporating attenuation storage modules. In addition, it would pass through oil interceptors before discharge into the Broadmeadow River.
- The supporting Appropriate Assessment Screening Report considers that it is not likely that the proposed development will have any detrimental impacts on the SAC and/or SPA during operational phase but does consider detrimental effects are possible during construction phase due to the possibility of silts or accidentally spilled oils, fuel or cement from the site entering the Broadmeadow River.
- The Natura Impact Statement proposes mitigation measures to ensure no adverse effects on the SAC and/or SPA. It is considered to be acceptable.

- It is recommended that the drainage system to be installed follow the specifications set out in the Engineering Services Report and that the measures set out in the CEMP submitted with this application be adopted in order to prevent pollution of the Broadmeadow River and detrimental impacts on the downstream Natura 2000 sites.

7.0 **Appropriate Assessment**

7.1. **Overview**

- 7.1.1. Accompanying this application is a Screening Report for Appropriate Assessment; a Natura Impact Statement; and an Ecological Impact Statement.

7.2. **Screening**

- 7.2.1. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening'.

- 7.2.2. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:

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

7.2.3. **Project Description and Site Characteristics**

The project description is given as 59 housing units and its attendant ground works. The site is described a large horticultural field which has been cultivated for vegetables and forming part of landscape primarily in agricultural use. The site is identified as

being close to the corridor of the Broadmeadow River with a portion of the site sloping down to this river. The site and its boundaries in its current state are described as being of low biodiversity value.

The AA Screening Report identify the following European sites:

- Malahide Estuary Special Area of Conservation (Site Code: 000205).
- Malahide Estuary Special Protection Areas (Site Code: 004025).
- Baldoyle Bay Special Protection Areas (Site Code: 004016).
- Baldoyle Bay Special Area of Conservation (Site Code: 000199).
- North Dublin Bay Special Area of Conservation (Site Code: 000206).
- North Bull Island Special Protection Areas (004006).
- Rogerstown Estuary Special Area of Conservation (Site Code: 000208)
- Rogerstown Estuary Special Protection Areas (Site Code: 004015).
- Rockabill to Dalkey Island Special Area of Conservation (Site Code: 000300).
- Irelands Eye Special Area of Conservation (Site Code: 002193)
- Irelands Eye Special Protection Areas (Site Code: 004117).
- Skerries Island Special Protection Areas (Site Code: 004122).

The pathway analysis carried out indicates that there is a direct hydrological pathway from the development site to the Malahide Estuary SAC and SPA via surface and wastewater flows to the Broadmeadow River and the Swords wastewater treatment plant, respectively. It considers as there are no hydrological or other connections between the site and other designated European sites it is therefore reasonable to screen out other identified European sites from further consideration.

Table 1: European Sites within the Zone of Influence of the Appeal Site

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
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<p>Malahide Estuary Special Area of Conservation (Site Code: 000205).</p>	<p>c5.7km to the south east.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	<p>To maintain or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.</p>
<p>Malahide Estuary Special Protection Areas (Site Code: 004025).</p>	<p>c6.2km to the south east</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>

		Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]	
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7.2.4. Assessment of likely Effects

Potential effects identified are based on the existing watercourses bounding the subject site that drains into the Broadmeadow River with potential for indirect impacts through deterioration of water quality, nuisances arising during construction activities including contamination, noise, and dust as well as the subsequent effect on water-based habitats and species identified under the qualifying interests for the designated sites, including bird species identified in the SPA.

In this regard it was considered that a hydrological pathway exists between the Malahide Estuary SAC and SPA with the conservation objectives as set out to maintain the area of habitat for each of the qualifying interests and to maintain the species communities.

Given the potential for large quantities of sediment and other construction pollutants to enter the aforementioned river it considers that sediment for example could increase the deposition levels beyond normal levels which in turn could affect the areas of habitat for which the SAC has been designated.

In addition, construction pollutants could result in toxic effects to invertebrate communities which are essential for maintaining the integrity of the SAC with the other potential knock- on effect of bird species identifying in the SPA depending upon these invertebrates for food.

Other nuisances that one can normally expect from construction works of the nature of the development proposed due to the significant separation distances and the changing context between alongside the low biodiversity value of the subject site were therefore not considered to give rise to any significant adverse impact on either the SAC or SPA.

Nonetheless it is considered that the proposed development as revised during the construction has the possibility to give rise to effects in relation to changes in water quality.

7.2.5. Screening Statement and Conclusions

The screening assessment concludes that significant effects cannot be ruled out on the Malahide Estuary SAC and Malahide Estuary SPA (Site Code 000205 and 004025 respectively) and that a Stage 2 Appropriate Assessment is required.

In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

7.3. Stage 2 – Natura Impact Statement (NIS)

7.3.1. I propose to consider the requirements of Article 6(3) with regards to appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning & Development Act, 2000, as amended, in this section of my report. In particular, the following matters:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment.
- The Natura Impact Statement; and,
- An Appropriate Assessment of the implications of the proposed development on the integrity of each Natura site set out under Section 7.2 above.

- 7.3.2. In relation to compliance with Article 6(3) of the EU Habitats Directive I again reiterate that the proposed development site does not form part of, it does not adjoin nor is it located within the immediate vicinity of any European site.
- 7.3.3. Further, on the basis of information provided and publicly available for consideration there is no evidence that supports it is directly connected to or necessary to the management of any Natura site.
- 7.3.4. It is therefore subject to the provisions of Article 6(3).
- 7.3.5. On the matter of screening the need for 'Appropriate Assessment', this I have set out under Section 7.2 of my report above and in this case 'Appropriate Assessment' is required as it cannot be excluded on the basis of the information available to the Board that the proposed development individually or in-combination with other plans or projects in its vicinity would have a significant effect on the following Natura sites:
- Malahide Estuary Special Area of Conservation.
 - Malahide Estuary Special Protection Areas

Which due to the existence of a hydrological pathway between the site via the Broadmeadow River and the aforementioned European sites alongside the potential for large quantities of sediment and other construction pollutants to enter into this watercourse during particularly the construction phase. With this having the potential to increase sediment deposition through to the levels of pollution with this in turn resulting in increased level of toxicity which could adversely affect water-based habitats and species that are identified under the qualifying interests for these designated sites, including bird species in the Malahide Estuary SPA, located downstream of the appeal site. Moreover, there is the potential of the proposed development to amplify in-combination with other plans and projects in the vicinity and setting of the Broadmeadow River.

- 7.3.6. On the matter of Natura Impact Statement (NIS), as previously noted in this report, this application on foot of the applicant's further information response has been accompanied by an NIS, prepared by OPENFIELD Ecological Services and dated September, 2020. It is based upon the revised design which consists of a residential scheme of 59 housing units on the site which lies on the periphery of the settlement of Rowlestown, in County Dublin, consisting of greenfield land. This report notes that

there is currently no attenuation of rain run-off and this enters the soil or finds surface pathways to the Broadmeadow River and that the design of the scheme is in accordance with the Greater Dublin Strategic Drainage Study that will ensure no changes will occur to the quantity or quality of run-off from the site if permitted.

7.3.7. It indicates that sufficient information has been provided in the NIS to undertake an Appropriate Assessment of the proposed development and that the main objective of the report is to determine whether or not the proposal either alone or in combination with other plans, programmes and projects result in any significant adverse effects on the integrity of the Malahide Estuary SAC and SPA with respect to these sites structures, species, function and/or conservation objectives and having regard to the hydrological pathway and relationship between the site and the said European sites under the Habitats and Birds Directive.

7.3.8. Given that the accompanying AA Screening Report sets out the following elements of the project which have the potential to cause environmental impact:

- Habitat Loss
- Habitat Disturbance Effects/Ex-Situ Impacts
- Hydrological Impacts – Wastewater, surface Water/operation phase, surface water construction phase
- Dust
- Abstraction
- In combination effects

It indicates that the hydrological pathways existing between the Malahide Estuary SAC and SPA that there is potential for large quantities of sediment and other construction pollutants to enter the River Broadmeadow.

7.3.9. **Assessment of potentially direct and indirect effects**

Having regard to the location of the site at a location where it does not form part of, is not adjacent too nor is it in the vicinity of any European sites with there being significant lateral separation distance between the site and the nearest site which is the Malahide Estuary SAC no direct effects on any European site will arise.

As discussed previously there is the potential for indirect effects on two European sites. That is the Malahide Estuary SAC and Malahide Estuary SPA. The indirect effects would be the potential for the proposed development to affect the qualifying interests and special conservation interests of these designated sites through deterioration of water quality in the Broadmeadow River during particularly the construction phase but also to a lesser degree during the operational phase. Potential effects identified are:

- Habitat Loss
- Habitat Disturbance effects/ex-situ impacts
- Hydrological Impacts during construction and operational phases
- Dust
- Abstraction
- In-combination Effects.

Of these it rules out habitat disturbance effects and ex-situ impacts based on this development not giving rise to such effects to birds in the Malahide Estuary SPA and noting that the subject lands are not suitable for regularly occurring populations of winter or wading bird associated with this designated site.

In relation to hydrological impacts, it indicated that there is sufficient capacity existing at the Swords wastewater treatment plant to accommodate the proposed development and that available data indicates that this plant has no observable impact on the WFD of the receiving waters.

In relation to dust it is envisaged that this impact would be localised in nature and given the significant lateral separation distance this effect on designated sites is not deemed to be significant.

In relation to abstraction, it indicates that there is no pathway between the development site and the sources of abstraction along the River Liffey. As such no negative effects would arise to any designated site by way of the proposed development.

Whereas potential effects from the construction phase would arise from the potential for large quantities of sediment and other construction pollutants entering the

Broadmeadow River with this potentially adversely effecting habitat and species, including bird species of the aforementioned designated sites. In addition, large quantities of sediment deposition beyond normal levels could arise with this also potentially adversely effecting habitat and species, including bird species of the aforementioned designated sites. As such the potential effect during the construction phase could broadly be summarised as deterioration of surface water quality through suspended solids and pollution.

Indirect effects on surface water during the operational phase are not anticipated with surface water management proposals on site. Surface water generated from the operational phase will consist of clean water with the development of the housing units confined to an area outside risk of flooding which essentially are comprised of the northern banks of the Broadmeadow River that forms part of the site.

7.3.10. Cumulative Effects

Cumulative effects may arise in-combination with other plans and projects in the vicinity including residential and commercial development in the vicinity. Permitted residential developments are on zoned lands and benefit from connection to municipal infrastructure in terms of surface water drainage and sewerage. It is not considered that there will be in-combination effects with other plans and projects with future residential development in Rowlestown being subject to stringent curtailment under the recent amendments made to the Development Plan under Variation No. 2 alongside recently permitted and/or under construction plans and projects are located with greater separation distances from the Broadmeadow River.

7.3.11. Mitigation Measures

Various mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated Sites. This includes the following:

- Construction following the guidance set out by Inland Fisheries Ireland for the protection of fish habitat. These measures include the erection of what is described as a robust silt curtain along the southern boundary to prevent the ingress of silt to the Broadmeadow River with water leaving the site passing through an appropriately sized silt trap or settlement pond so that only silt-free

run-off will leave the site. In addition, the surface water outfall construction behind a temporary coffer dam so that works can be undertaken in the dry.

- Dangerous substances will be stored in a bunded zone and with relevant contact numbers displayed in prominent position in the event of a pollution incident.
- Training of site personnel on the importance of preventing pollution and the mitigation measures proposed to be adopted on site.
- A site manager will be responsible for implementation of measures and inspections will occur on at least a daily basis for the duration of works with records of inspections maintained.
- Mitigation measures will be included in the CEMP.

Based on the information provided, which is based on best scientific knowledge, it has been demonstrated based on the information in the submitted Natura Impact Statement that with implementation of mitigation measures including construction management and operational measures that the proposed development, individually or in combination with other plans and projects would not adversely affect Malahide Estuary SAC, Malahide Estuary SPA or any other designated European site.

7.3.12. Appropriate Assessment Conclusions

I consider that due to the fact that the southern boundary of the site bounds the banks of the Broadmeadow River, with this area also identified as potentially vulnerable to flooding under the OPW CFRAM Maps; there are also substantive drainage ditches that run along the boundaries of the site, in particular along part of the western boundary that link to the Broadmeadow River; the topography of the site slopes in a southerly direction towards the Broadmeadow River and the Broadmeadow River is situated upstream of the Malahide Estuary SAC and SPA; and, having regard to the heavy nature of the soil conditions of the site, that the preparation of the State 2 Appropriate Assessment was necessary for the proposed development, including an assessment of its in combination effects with other plans and projects.

I consider on the basis of the information on file despite these challenges that the applicant in this case has demonstrated in the submitted Natura Impact Statement that with the implementation of mitigation measures including robust construction

management and also operational measures that are to the required standards, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (Site Code: 004025) or any other such designated European, in view of the their Conservation Objectives.

I further note to the Board that the Department also reached the same conclusion in their assessment of the proposed development as revised.

8.0 Assessment

8.1. Introduction

8.1.1. Having examined all documentations on file, having carried out an inspection of the site and its setting through to having regard to the proposed development against all relevant policy provisions, I consider that the substantive issues arising in this case centre on the Planning Authority's given reasons for refusal. Therefore, for clarity purposes I propose to deal with these matters under the following broad headings in my assessment below:

- Principle of the Proposed Development & Compliance with Planning Provisions
- Amenity Impact
- Access
- Other Matters Arising

8.1.2. Before I commence my assessment, I note that the proposed development as originally submitted to the Planning Authority comprised of a residential scheme of 73 housing units with sole access to the public roads system via an entrance onto Church Lane, also known as Rowlestown Road, on a site area of just over six hectares that is currently in agricultural use and located on the easternmost periphery of Rowlestown, a village in north County Dublin.

8.1.3. The Planning Authority having carried out their assessment of the proposed development as initially sought by the applicant concluded with a request for further information which the applicant responded to by way of submitting a significantly revised in nature, scale, design, layout residential scheme that crucially reduced the

housing unit numbers to 59 and provided a revised internal access road that also included further improvements to the works proposed along the Church Road frontage. Alongside these revisions to the density, design and layout the applicant's response sought to clarify and overcome certain deficiencies in the information provided with the initial scheme submitted to the Planning Authority. These deficiencies resulted in a lack of information for an informed decision to be made on the development proposed. With the information lacking including but not limited to a Natura Impact Statement through to an archaeological heritage impact.

8.1.4. While I acknowledge that the applicants preferred option by way of their 1st Party Appeal would be for the Board to make a determination on the initial residential scheme, as submitted to the Planning Authority, on the 25th day of February, 2019. But in the event that the Board deem this not to be acceptable they then seek that the Board make their determination on the revised scheme. And in so doing overturn the decision of the Planning Authority based on the schemes planning merits as well as the considerable efforts made by them to address each of the items contained within the Planning Authority's further information request.

8.1.5. As the revised scheme puts forward a residential scheme that is more cognisant of its location and puts forward a variety of qualitative improvements including a reduced density that is less uncharacteristic of its setting; improvements to the overall design and layout resolution; improvements to infrastructure; improvements to roadside address and its boundary treatments; improvements to the visual aesthetics of the buildings within the scheme; improvements in terms of lessening the potential for adverse impacts on the residential amenities of adjoining properties through to it provides a more qualitative suite of documentation to carry out an informed assessment of the scheme. With it importantly providing much needed information from Built Heritage, AA Screening Report, a NIS through to ecological assessment which are lacking from the suite of documents submitted with the original documentation despite the site sensitive location of the development. Based on these factors I have therefore based my assessment on the scheme as revised and I recommend that the Board should also do so in their determination of this case.

8.1.6. In terms of the Planning Authority's further information request and the concerns raised by the appellant in regard to the breadth of information and revisions required to respond positively to it. With this giving rise to additional costs and a lengthier time

frame for them to get a final determination from the Planning Authority. With the outcome being a refusal of planning permission.

- 8.1.7. This has resulted in frustration for the appellant given in their opinion that if the decision had been made prior to the adoption of Variation No. 2 of the Development Plan that this residential scheme would have been a scheme that accorded with relevant planning provisions.
- 8.1.8. On this particular issue I consider that the Board does not have an ombudsman type role in their determination of appeal cases, and I consider that these concerns relate to the Planning Authority procedural handling of this application. I note that it is often the case that the Planning Authority in their determination of an application considers that there is inadequate information before them or indeed gaps in the information required to reach a conclusive and well-informed determination of planning applications.
- 8.1.9. In this situation the Planning Authority deemed it appropriate and reasonable to give the applicant an opportunity to address a number of their concerns in relation to the proposed scheme as well as make them aware of information that they deemed to be lacking but was required for them to make their determination.
- 8.1.10. There is no presumption built into the planning system that on foot of an applicant addressing a Planning Authority's request for further information that the outcome will be a grant of permission.
- 8.1.11. Having examined the original documentation submitted with this application in my view it is lacking in necessary information as well as the density, design and layout is contrary to local and regional settlement strategies as well as hierarchies.
- 8.1.12. As the site forms part of 'RV' land where residential development is deemed to be generally acceptable subject to safeguards it was not unreasonable in my view for the Planning Authority to have given the applicant an opportunity to address these matters.
- 8.1.13. Notwithstanding, the Board's role in this appeal case is to make *de novo* consideration of the proposed development as submitted in the original application to the Planning Authority and as subsequently revised by the Planning Authority's request for additional information.

8.2. Principle of the Proposed Development & Compliance with Planning Provisions

- 8.2.1. As previously noted, the subject appeal site is located on the periphery of Rowlestown village, in north County Dublin. This is a modest in population, size, nature, and extent village. With a limited variety of different land uses with the predominant land use present being residential in nature and with its peripheral urbanscape transitioning rapidly from its historic core into greenfield agricultural predominating lands due to its sprawling built-scape form and layout.
- 8.2.2. It is very evident having visited the village as part of my site inspection that it and its surrounding hinterlands have been and are under significant development pressure due to their location close to other larger settlements and the village's short commute to Dublin.
- 8.2.3. As one of the rural villages identified in the Dublin Metropolitan Area and being identified in planning provisions as a commuter settlement, I observed that despite being predominantly comprised of residential in function buildings it also includes a very small patchwork of other land uses scattered throughout its sprawling form. These other land uses included a primary school, church, community hall, a creche and a petrol station. With the latter containing a small retail convenience store.
- 8.2.4. Having regard to the physical form of the village itself, I concur with the Planning Authority that it occupies a peripheral location relative what could be considered as the historic centre of this village with greenfield agricultural in use land present on the opposite side of the road, to the east of it and on the opposite banks of the Broadmeadow River with agricultural land predominating the further one journeys away from the site and the village itself.
- 8.2.5. The site is accessed via a modest in width, meandering and in places poorly surfaced local road (Note: Church Road/Rowlestown Road). Despite containing a proliferation of entrances, particularly to the west of the site, with these entrances serving mainly varying types of residential developments there are no footpaths, cycleways, public lighting through to functional roadside verges present.
- 8.2.6. In parts this heavily trafficked local road is quite restricted in its width and is also poorly surfaced. This road also provides connection to a network of similarly substandard local roads and connection to the nearest regional road the R125 at its nearest point situated just over a kilometre to the south west via the heart of the village and c1.5km

to the south east via the local road network that also crosses over the Lispopple Bridge, a Protected Structure (RPS Ref. No. 336 and NIAH Ref. No. 11327002).

- 8.2.7. The site in its current state is in agricultural use and is served by a wide agricultural entrance that suffers from limited sightlines to the east and west.
- 8.2.8. To the west the site is bound by a small scheme of residential developments whose construction appears to have been paused for a time as well as an established residential one-off dwelling and a one-off residential dwelling under construction.
- 8.2.9. As one journeys westwards from the sites entrance onto Church Road, it is characterised by linear mainly one-off residential developments but also there are cul-de-sac residential schemes of detached dwellings on garden plots, e.g. 'The Sycamor'.
- 8.2.10. The site and it's setting form part of a larger parcel of land zoned 'RV (Rural Village)' under the current Fingal Development Plan. The land use objective for such land is to protect and promote the character of the rural village and to promote a vibrant community in accordance with an approved Local Area Plan as well as the prerequisite availability of physical and community infrastructure.
- 8.2.11. The vision for villages like Rowlestown as set out in the Development Plan is to manage residential development through local area plans. It seeks to ensure that a critical mass for local services is encouraged without providing for growth beyond local need and unsustainable commuting patterns.
- 8.2.12. This is further reinforced under the Development Plan's Core Strategy in relation to development in villages like Rowlestown that these shall complement and support higher order settlement centres. In addition, that these settlements will be managed to ensure these centres do not expand rapidly, putting pressure on services; the environment; and creating the potential for unsustainable travel patterns.
- 8.2.13. I note that this is reinforced by Development Plan objective SS01. This objective seeks to consolidate the vast majority of the County's growth into what it identifies as strong and dynamic urban centres of the Metropolitan Area. While directing development to the core of towns and villages in a manner that accords with regional and national planning provisions.
- 8.2.14. Variation No. 2 to the Development Plan further reinforces this objective under Objective SS01a which crucially aligns objective SS01 with changes that have

occurred to regional and national planning guidance since the current Fingal Development Plan was adopted. With this new objective seeking to support the implementation of and promotion of development that is consistent with the National Strategic Outcome of Compact Growth as outlined under the National Planning Framework (NPF) as well as Regional Spatial and Economic Strategy (RSES).

8.2.15. Further, objective SS01b indicates that the consolidation of the existing urban footprint is supported by ensuring that 50% of all new homes within or contiguous to the built-up area of Dublin and suburbs and 30% within targeted existing built-up areas in order to achieve compact growth of urban settlements in a manner advocated by the RSES.

8.2.16. Having regard to the above it is considered that whilst the general principle of residential development is acceptable on 'RV' zoned lands there are complexity of safeguards and considerations that must in tandem be considered. In my view this means that such applications should be considered on their merits and how they accord with relevant planning provisions at a local, regional and national planning context.

8.2.17. The first reason given by the Planning Authority in its notification to refuse planning permission for the proposed development considers that the proposal fails to accord with Regional Policy Objective (RPO) 4.83 of the Regional Spatial and Economic Strategy (RSES) which it notes seeks to support the consolidation of the town and village network in order to ensure that development proceeds sustainably, at an appropriate scale, level and pace in line with core strategies of the County Development Plan. In addition, it indicates that the provisions set out in the Development Plan for villages like Rowlestown seek for them to be managed so as to ensure that they do not expand rapidly putting pressure on services, the environment through to creating unsustainable travel patterns. Alongside this it indicates that the growth of commuter villages should be curtailed so that they do not act as a catalyst of continuing expansion of unsustainable growth patterns. It therefore considered that the proposed development was contrary to these planning provisions.

8.2.18. Arguably this reason for refusal is further expanded by the Planning Authority under its second reason for refusal.

8.2.19. This reason for refusal also reiterates RPO 4.83 and it refers to National Policy Objective 15 of the NPF. It notes that these particular objectives seek to support the

sustainable development of rural areas by managing their growth and to ensure that rural areas subject to strong urban influence are not overdeveloped. This reason for refusal also refers to the 'RV' land use zoning objective and it makes note of Objective PM18. I note that this Development Plan objectives requires the Planning Authority to implement existing Village Design Frameworks prepared as part of Local Area Plans. I further note that the most recent LAP for Rowlestown has expired. It raises concern that the proposed development would result in a level of development that is beyond the assimilative capacity of this village settlement and as articulated under local, regional, and national planning policy.

8.2.20. Both the first and second reason for refusal given by the Planning Authority conclude that to permit the proposed development would be contrary to proper planning and sustainable development of the area.

8.2.21. The appellant in their submission to the Board contend that the development had been designed in a manner that accorded with the LAP and the VDFP. It is their view that if the local planning policy provisions had not changed by way of Variation No. 2, the expiry of the LAP and VDFP, it is probable that the proposed development would have been deemed to be acceptable, as in their view the development accorded with the LAP and VDFP for Rowlestown.

8.2.22. Moreover, it is their view that despite the recent changes to local planning provisions that have sought to align the Development Plan with regional and national provisions in terms of its core strategy through to settlement strategy that this residential scheme would have provided additional critical mass for supporting services and amenities within the village of Rowlestown.

8.2.23. Alongside it would have added to the amenities within this village by opening up lands on the southern portion of the site for a riverside park. They also consider that the proposed development would bring welcome road safety improvements to the site's roadside frontage through to the improvements to Church Road.

8.2.24. Before I refer to the amendments made to the Development Plan under the recently adopted Variation No. 2, I again reiterate that both the LAP and VDFP for Rowlestown have expired. Therefore, in the absence of such plans and/or frameworks being in place to permit the proposed development would arguably be contrary to Objective PM18 of the Development Plan. Whilst these documents provided a vision for

development in Rowlestown and a planning context against which detailed proposed developments could be considered against. I note that the vision and planning strategy did not envisage the density of housing proposed under this application at this location even with the number of housing units being revised from the 73 initially sought to the now revised 59.

8.2.25. Arguably the 59 housing units proposed under this revised scheme and their consolidation in placement on site to an area of circa just over 4 hectares of the site setback from the Broadmeadow riverbank which are recognised as having amenity potential but also at risk of flooding is a significantly more dense, tighter grain and a more suburban in aesthetic physical and visual attributes form of residential development than the 30 housing units indicated for these land under the now expired Village Development Framework Plan.

8.2.26. In addition, even if the LAP and VDFP were not expired, and Variation No. 2 of the Development Plan was not adopted regional and national planning provisions relevant to the nature of the development are still relevant considerations in the determination of planning applications.

8.2.27. For example, Objective 33 of the NPF 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. The nature, scale, design, density, and suburban attributes of the residential scheme when regard is had to the permitted, under construction and existing residential development bounding and neighbouring the site to the west through to the physical characteristics and substandard infrastructure present at this location, means that the proposed development is one that could not be considered to accord with this objective. I also observed a number of dwellings that appeared to have been derelict for a considerable time as well as for sale.

8.2.28. In addition, Objective 27 of the NPF seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Given the peripheral location of the site i.e., its remoteness from the centre of Rowlestown village; this villages sprawling character; the substandard nature of the local road system serving the village as a whole together with the limited serves, amenities and other land uses that would be

considered synergistic and beneficial to any future occupants, these are very limited in their provision, diversity, and variety. Arguably the proposed development at this location is not one that could be considered to be accessible as these deficiencies place a reliance by residents of private cars.

8.2.29. Nor does there appear to be any realistic plans or funding for the provision of a designed, safe, well connected and highly permeable walking as well as cycling provision for this village in the near to long term.

8.2.30. Further, developments in recent times within this village appear to be largely residential in their nature and extent therefore not adding to the diversity of land uses present within this village.

8.2.31. An example of the peripherality can be had in terms of the roadside boundary of the site's proximity to Rowlestown National School. By road, its c0.7km. There are no footpaths or cycleways, lighting, or functioning verges along this route. I found walking this route to be unsafe and treacherous due to the substandard nature of Church Road.

8.2.32. For example, it is restricted in its width, has a meandering and undulating alignment and there are many entrances opening onto it.

8.2.33. This then added to by the heavy volumes of various types of traffic using it in both directions, its raised sod and grass roadside verges that in places are accompanied by deep drainage ditches. In addition, in places this road suffers from poor quality and eroded road surfacing. There are also places along it where there is significant ground level difference between the road carriage edge and verges. In places there were significant falls in ground levels between the carriage edge and the verge with the space in between being uneven.

8.2.34. Alongside this the local road despite having a posted speed limit of 50kmph from a location at a distance to the east of the roadside boundary of the site I observed that few vehicles of the vehicles I encountered were travelling at or below this speed with most appearing to travel at considerable speeds above the posted speed limit.

8.2.35. As such I do not consider that the proposed development could be one that could offer future residents a realistic environment where they had access to a safe walking and cycling environment as an alternative mode of transport to the private car for journeying to this school. This is similarly the case for the local creche which I note is

located in close proximity to the school in what appears to be a building used for community related purposes.

8.2.36. With this being said to walk or cycle to gain access to the limited public transportation provision available in this village the safest option to do so is by car.

8.2.37. If permitted, it would be inevitable in my view that future occupants of this scheme would be heavily reliant on private cars for journeys and as such this would not accord with the Objective 27 of the NPF.

8.2.38. I further note that Regional Spatial and Economic Strategy recognises that one of the key challenges facing this region is the need for better alignment of population growth, the location of residential development, employment, and the like in order to create development that is sustainably led as well as that gives rise to healthy placemaking and attractive places to live, work and play. It also sets out that climate action is one of the key principles to achieving this. Encouraging car reliant residential schemes in settlements with limited amenities, services and other infrastructure including high quality public transport would be contrary to this.

8.2.39. Therefore, the regional spatial planning provisions seeks to reinforce the national planning provisions, in particular the NPF and its objectives. Alongside this it sets out an overall settlement strategy for an integrated land-use and transportation of the region with this focused on:

1) Consolidation of Dublin City and Suburbs.

2) Focus on 'Key Towns' which I note Swords is one with it located c5.7km to the west of the site and to the west also of the centre of Rowlestown village.

3) 'Planned Development' of strategic development areas which I note Rowlestown does not form part of.

Together with the fact that that National Planning Policy Objective 15 of the NPF also clearly seeks to avoid overdevelopment in rural areas under strong urban influence which is a significant issue for the village of Rowlestown and its setting.

8.2.40. Of additional concern in my view is in recent times the quantum of housing permitted within the settlement boundaries of Rowlestown. With this reflecting one-off detached dwellings for example under P.A. Ref. No. F20A/0483, a modest scheme of 5 housing units granted permission under P.A. Ref. No. F18A/0522, a grant of permission for 26

housing units under P.A. Ref. No. F19A/0490 through to the Boards recent decision to grant permission for a residential scheme of 130 housing units under ABP Ref. No. 306182. Moreover, there is a current appeal case for the construction of 40 housing units also in the village of Rowlestown before the Board for determination (Note: ABP Ref. No. 309135).

- 8.2.41. Considering the modest size of Rowlestown village these recent grants of permission reflect a significant expansion of the settlements housing stock when completed and further reflects the significant pressure for residential development of various types and quantum's this village has faced in just the last few years.
- 8.2.42. Moreover, the planning history of the site reflects an imbalance with proposed development in the village being largely residential in nature, scale, and extent. They do not appear to correspond with any substantive tangible improvements to this village's infrastructure, services, amenities, job opportunity through to improved connectivity to other smaller through to larger settlements in its immediate to wider vicinity, in particular Swords and Ashbourne, which residents of this village and future occupants of the village are and would continue to be highly reliant upon to fill these vacuums.
- 8.2.43. Also, of concern they have reinforced the overdevelopment of this settlement in manner that does not reflect a phased and managed form of development at this location nor in a synergistic manner at a level such a modest sized settlement with limited infrastructure, services and amenities can easily and successfully assimilate.
- 8.2.44. As RPO 4.83 requires developments to proceed at a level and pace in line with the core strategies of the County Development Plan it is further considered that to permit the proposed would be inconsistent with this objective.
- 8.2.45. Both the NPF and RSES make a clear distinction between areas under urban influence, that is to say within the commuter catchment of cities and large towns and centres of employment. As well as rural areas outside of these catchments.
- 8.2.46. The villages within the County are identified as being either located in the Metropolitan Area or the Core Area. With Rowlestown identified as one of the villages in the Metropolitan Area with this designation based upon its location close to Dublin and/or due to its location relative to major routes to the city. In these villages it indicates that

future growth rates should be curtailed or safeguarded so that they do not act as a catalyst to facilitate continuing expansion of unsustainable growth patterns.

- 8.2.47. Taking these factors alone into account it is clear that this development, if permitted, would be contrary to regional and national planning provisions irrespective of recent changes to local planning provisions.
- 8.2.48. Further, I am therefore not convinced that the Board would have been minded to grant permission for the proposed development based on the above considerations of relevant regional and spatial planning provisions.
- 8.2.49. Moreover, if for example if Variation No.2 was awaiting adoption the Development Plan in the absence of its amendments included objectives that support regional and national planning provisions. Including but not limited to Objective SS01.
- 8.2.50. This objective seeks that development consolidates the vast majority of the County's growth into strong and dynamic urban centres of the Metropolitan Area while directing development in the core to towns and villages, as advocated by national and regional planning guidance. As such, suburban residential types of developments of this scale given the nature of Rowlestown to receive it would be a type of development that would be directed to more appropriate nearby settlements like Swords where they could be more readily absorbed and assimilated in a sustainable and resource efficient manner. Whilst at the same time adding to the critical mass and vitality of these settlements.
- 8.2.51. In relation to Variation No. 2 to the Fingal Development Plan, 2017 to 2023, I note that it was adopted on the 19th day of June, 2020.
- 8.2.52. It therefore proceeded the Planning Authority's decision on the subject application and also the Board's determination of appeal cases on ABP Ref. No. 306182 and 306955.
- 8.2.53. Crucially this document amends the current Fingal Development Plan core strategy and makes a significant number of other amendments to it with the purpose of aligning it in a consistent manner with the changing nature of regional and national planning policy provisions in the intervening years from its adoption in 2017. In particular, it aligns the Development Plan with Regional Spatial & Economic Strategy, (RSES) 2019 to 2031, the Dublin Metropolitan Area Strategic Plan (MASP) and the National Planning Framework.

- 8.2.54. Variation No.2 makes it a requirement that residential development should be consistent with planning provisions at a regional and national scale. In particular in accordance with the county settlement strategy which now has resulted in the Development Plan containing amendments and reinforcements to its settlement strategy so that it is consistent with that set out in RSES.
- 8.2.55. There are various amendments to objectives contained within the Development Plan with many objectives that are relevant to a development of this nature being now supported by addendum objectives.
- 8.2.56. Of particular relevance to this appeal case is Objective SS02 of the Development Plan which seeks to ensure that all developments accord with the County's settlement strategy as well as is consistent with Fingal's identified hierarchy of settlement centres with this objective is now further added to by Objective SS02a. Objective SS02a seeks that development will be permitted in principle on lands where there is a LAP or Masterplan Plan. As previously said, there are no such plans currently in place for the site. With the most recent LAP and VDFP now expired. Therefore, to permit the proposed development in the absence of the same would generally be considered to be contrary to said objectives with the expired LAP and its accompanying VDFP directing the development of this village in a manner that would fail to accord with the Core Strategy through to local and regional settlement hierarchy.
- 8.2.57. In addition, Objective SS02b seeks to focus new residential development on appropriately zoned lands within the County, at appropriate locations proximate to existing settlement centre lands where infrastructural capacity is readily available and where they are accessible to existing or proposed high quality public transport corridors. It also seeks to channel development in a phased manner alongside the delivery of appropriate physical and social infrastructure.
- 8.2.58. As such local planning provisions now seek to safeguard and curtail growth in settlements like Rowlestown that form part of the Metropolitan Area more robustly. They also seek that where developments are permitted that these will be of an appropriate scale, level and occur at pace in line with the Development Plans core strategy as well as not contribute to unsustainable growth patterns.
- 8.2.59. Having regard to the planning history of Rowlestown in relation to quantum and types of residential developments that have been permitted in recent times relative to the

characteristics of Rowlestown, its infrastructure, through to the level of services and amenities it contains it is clear that the scale, level, and pace has been at a level this settlement cannot sustainably absorb. The additional 59 housing units proposed under this application, if permitted, would further exacerbate this, and would further strengthen its primary function as commuter-based settlement with an inadequate mix of amenities and services to sustain its vitality and vibrancy. It would also further add to the significant pressure there is on existing infrastructure, amenity, and services.

- 8.2.60. Of further concerns in relation Variation No. 2 and its amendments of the Development Plan, it further adds to Objective SS03. This objective essentially seeks to identify lands for residential development in order to achieve the housing and population targets set out in its Core Strategy. Which has a particular focus on urban regeneration and compact growth whilst also seek to ensure that excess lands surplus to this specific requirement not being identified or targeted for such growth in order to prevent fragmented development, uneconomic infrastructure provision and car dependent urban sprawl. Further, direction is added by Objective SS03a which requires development to be consistent with the National Strategic Outcome of Compact Growth as provided for under the NPF and RSES.
- 8.2.61. As set out previously the subject site whilst identified as rural village zoned land it is located in a very modest village with limited infrastructure, services and amenities that is overdeveloped. The density of the development proposed under this application alongside having regard to permitted residential development is of a scale that has exceeded that provided for this type of settlement under both mentioned documents.
- 8.2.62. Therefore, to permit the proposed development would be contrary to Objective SS03 and Objective SS03a.
- 8.2.63. Moreover, the proposed development would also be contrary to Objective SS12 which seeks to channel development like nearby Swords (Note: Key Town) in line with the County's settlement hierarchy.
- 8.2.64. Based on the above considerations I consider that the principle of the proposed development when regards is had to relevant planning provisions discussed is unacceptable. This is a substantive reason in itself for the proposed development to be refused and as such I broadly agree with the reasons given by the Planning Authority in their first and second reason for refusal.

- 8.2.65. Moreover, I consider that the above considerations further support the Planning Authority's third reason for refusal. In terms of the site's peripheral location, its poor connectivity to services, amenities and other land uses that future occupants of a residential scheme would require either within the village itself or provided in neighbouring settlements, and the substandard nature of the road infrastructure serving it. In particular Church Road. These are all contributing factors that support that this development, if permitted, would be over reliant on private cars for local and non-local trips across all journey purposes. This is a further reason as to why the proposed development would be contrary to Objective SS03 of the Development Plan.
- 8.2.66. Furthermore, I consider that the above considerations further support the concerns raised in the Planning Authority's fourth reason for refusal. This reason for refusal essentially raises concerns that due to the suburban character of the residential scheme, a type of development that does not contribute in a successful or harmonious manner to the character and pattern of development that characterises this village.
- 8.2.67. I also consider that the proposed development is not in keeping with the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities. In that this Ministerial Guidance requires such developments to be plan led; that they contribute to compact form with their design providing for walking and cycling over travel by car for local trips; that the development is of a scale that is in proportion to the pattern and grain of existing as well as permitted development through to that for settlements that are within 45mins to 1 hour travel time from major cities and where developments are commuter driven that these developments are consistent with higher level plans. The proposed development could not in my view be considered to be consistent with this guidance.
- 8.2.68. Taking the above considerations into account I generally concur with the substantive concerns raised by the Planning Authority in their given reasons for refusal and that based on the above considerations that the principle of the proposed development is not consistent with proper planning and sustainable development as provided for under local, regional, and national planning provisions for the nature of the development sought.

8.3. Other Matters Arising

8.3.1. **Residential Amenity Impact:** While I accept that the proposed development as revised, if permitted, would give rise to a much changed context for established and under construction residential development bounding the western perimeters of the site and neighbouring residential development in the vicinity on Church Lane, Notwithstanding, I consider that the revised scheme in general provides a design layout that subject to appropriate safeguards would not give rise to significant adverse residential amenity impact for properties in its vicinity.

8.3.2. **Visual Amenities:** I am not satisfied that the architectural design, the built form, the relationship between buildings and spaces; the use of materials, finishes and treatments through to the treatment of the transition lands between the phasing of the development, its relationship with the land to the east and legibility from the public domain of Church Lane through to the treatment of the boundary between the existing and established one off detached dwellings bounding the western boundary at its northernmost end of this proposed housing scheme is innovative or of particular high quality.

Further, the design does little to reinforce placemaking and a sense of identity with its overall design being one that typifies suburban residential schemes that could be found anywhere.

Such an approach to proposed housing scheme in a modest village at a point where it would be located on a highly visible as one journeys into Rowlestown via Church Road with a sharp juxtaposition between urban and rural scape proposed would result in the village's intrinsic character and pattern of development that informs this village's sense of place being further eroded.

There are many positive traits within this village that design inspiration could have been taken from. Including but not limited to historic and vernacular building stock, the Broadmeadow River, the rural location and through to the potential to strengthen ecological corridors along and to the Broadmeadow River.

In failing to have regard to its setting, the residential scheme proposed is one that if permitted would be visually at odds with its immediate setting and with its wider village setting. Moreover, it would not result in a visually successful juxtaposition between

built environment and its greenfield setting at the edge of the village nor would it result in a successful built entry into the village of Rowlestown via Church Road.

I am therefore not convinced that the proposed development in this instance would not result in diminished visual amenities of its setting.

- 8.3.3. **Planning Precedent:** The Board recently refused planning permission for 85 units and a creche c640m to the north-west of this site, as the bird would fly, which arguably is a more central located site relative to the historic heart of this settlement, with its first reason and consideration for refusal being similar to the first and second reasons for refusal given by the Planning Authority in its notification to refuse planning permission for this proposed development (Note: ABP Ref. No. 306955).

The first reason for refusal essentially considered that the proposed development would be contrary to the local and regional settlement hierarchy as well as the Development Plan policies for the area.

It therefore considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

At present there are two other cases relating to residential schemes in the settlement of Rowlestown before the Board for its determination. These are ABP Ref. No. 309915 and ABP Ref. No. 308526. Under ABP Ref. No. 309915 the Board is being sought to overturn a decision of the Planning Authority to refuse planning permission for 40 housing units under a 1st Party Appeal and under ABP Ref. No. 308526 the Board is being sought to overturn a decision of the Planning Authority to refuse planning permission for 26 housing units also by way of a 1st Party Appeal.

At the time of preparing this report no decision has been made on either of these appeal cases.

I note that the appellant has also referred to other appeal cases determined by the Board. I consider that outside of ABP Ref. No. 306955 which was considered in the context of the adopted Variation No. 2 of the Development Plan and that lies in close proximity to the site but as said occupying a more central location within the physical and functional structure of Rowlestown village that these other examples do not share many similarities to the site itself.

Further, the recently expired LAP for Rowlestown and in essence the VDFP advocated the development of this village in a manner that failed to accord with the regional settlement strategy set out under RSES.

Moreover, it is appropriate that all applications should be determined on their merits.

- 8.3.4. **Infrastructure:** I have previously noted my concerns in relation to the substandard nature of the local road which the proposed development scheme is dependent upon for access and egress both during construction as well as operational phases.

Having inspected the site and the submitted drawings as revised I concur with the Planning Authority's Transportation department that any grant of permission should require appropriate conditions to deal with visibility; upgrade of the public road bounding the site to the north; the details of the internal road network to be subject to agreement with the Planning Authority through to that any relocation of overhead and underground services should be at the applicants expenses or indeed any damage that arises to the public road on foot of permitting this development during the construction phase.

However, I consider that these improvements alone are not enough to overcome the significant substandard nature of this Church Road to the east which would be the direction ordinarily travelled to journey to Swords, the M1, Dublin City and Dublin Airport for example. And to the west, with would be the direction ordinarily travelled to reach the nearby settlement of Ashbourne, also a designated Key Town, the N2 through to M50 as well as the western suburbs of Dublin City.

In addition, this local road connects to a lattice of similar substandard in nature roads that are under significant capacity pressure with limited investment in them despite the increasing nature, scale, and extent of developments that they cater for.

Having regard to the significant substandard nature of the local road network serving the site, the site's distance from regional roads, in particular the R125; and in the absence of any realistic wholesale reworking of the road infrastructure that serves the settlement of Rowlestown for cars, cyclists and by foot together with improved connectivity to the R125, it is my view that significant improvements are needed to it before it can accommodate further significant developments like that proposed under this application even if in the near future a Masterplan or new LAP for this village is adopted. As such developments like this irrespective of the findings of this

assessment that the proposed development is contrary to planning provisions to permit the proposed development in the absence of significant infrastructure would be premature.

8.3.5. **Drainage:** I concur with the Department of Tourism, Gaeltacht, Sport and Media and the Planning Authority in that the revised drainage solutions are much improved; are generally acceptable and that outstanding issues could be dealt with by way of appropriately worded conditions. In particular as recommended by Department of Tourism, Gaeltacht, Sport and Media as well as the Planning Authority's Water Services and Parks Divisions. Should the Board be minded to grant permission for the proposed development I recommend appropriate conditions be included to achieve these improvements to the drainage infrastructure within this scheme alongside the improvements recommended would also improve the aesthetics and the amenity of the two proposed ponds.

8.3.6. **Flood Risk:** The revised application is accompanied by a document titled 'Site Specific Flood Risk Assessment' which seeks to identify and present the flood risks associated with the proposed development alongside to propose flood risk mitigation and management measures to be implemented into the development to mitigate against any residual flood risk with the findings of this informing the revised design and layout of the residential scheme proposed.

It indicates that whilst the total site area is 6.1702ha the area adopted for the purpose of the drainage calculations excludes the area of the site referred as 'Half Road' and the riverbanks to the south. This therefore gives rise to a reduced development area of 4.6981ha with the remainder of the site area being undeveloped under this application.

It considers this 4.6981ha as a greenfield site takes cognisance of the reduction in housing units from 73 to 59.

It describes the topography of the site as generally sloping in an easterly and south easterly direction adjacent to the existing road with there being a high point in the centre of the site. As such it acknowledges that all watershed results in a run-off being directed towards the Broadmeadow river to the south.

It further describes the site slopes as gradual on the northern portion of the site but with these tapering off more quickly on the approach to the said river's floodplains which it indicates slopes up to 18% at its steepest location.

It notes that the site is located approximately 10.4km from the Irish Sea at Donabate/Malahide to the east.

It notes that there is a public wastewater sewer running parallel to the Broadmeadow River at the southern side of the site with ground levels falling towards the existing wastewater pump station to the east and that discharge from Church Road feeds into a carrier pipe and ditch on the southern side of Church Road and there are no observed or known watercourses, culverts or other surface water conveyances traversing the site.

It notes that the Irish Coastal Protection Study confirms that the site is not at risk of coastal flooding due to its remote location from the Irish Sea and that the OPW catchment Flood Risk Assessment and Management Study flood extent mapping does not provide any great level of detail in relation to the specific area, but the flood extents are shown at high level confirming that the watercourse is modelled.

The analysis of this indicates that a 0.1% AEP event is apparent, but it considers that this does not extend to where the proposed development within the site is to occur.

Reference is made to the Rowlestown LAP Strategic Flood Risk Assessment which was carried out in February, 2020. When reference is had to this assessment the area in which the proposed development is proposed does not fall within area that would be impacted by a 0.1%AEP event. It indicates that minimum closest floor level within the development relative to this is 31.70m aOD.

It indicates that there are no works proposed within the identified floor extents area alongside the proposed development incorporates a number of SuDS and surface water management devices which promote infiltration to ground as well as results in attenuated water discharging to the Broadmeadow River as per required best practice. As such it considers that flooding will not occur, and any overland flow routes would result in any waters surcharging to the surface as a result of the network failure will follow defined route towards swales and attenuation facilities.

This report considers that the likelihood of pluvial flooding within the completed scheme is extremely low.

Having regard to the 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' 2009, all relevant planning provisions including having regard to the recently prepared Rowlestown LAP SFRA it is considered that the proposed development site is wholly located within 'Flood Zone C' for all types of flooding and there are no sources of flooding identified for this portion of the site. As such it considers that there are no requirements to progress to a Stage 2 Initial Flood Risk Assessment; that the proposed development is classified as 'Less Vulnerable'; that the proposed development is appropriate and that no 'Justification Test' is required.

In terms of recommendations, it includes that the FFL be set at a minimum of the TWL of the attenuation facility for the critical storm event; that a climate factor of 20% be applied; that SuDS measures that accord with the Development Plan and the GSDSDS be incorporated into the surface management and disposal designs for the proposed development.

Subject to these safeguards, it concludes that the proposed development will not adversely impact on the existing flood regime of the area.

The Planning Authority concurred with this conclusion and I similarly reach this view based on best available information and this report that demonstrates that the proposed development, subject to the safeguards recommended, that the proposed development accords with Objective SW07 of the Development Plan. Which I note seeks to implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated version of these guidelines.

- 8.3.7. **Phasing:** The phasing of the revised 59 housing units into three distinct phases over a 5-year period does not overcome the various substantive concerns raised in this report and the reasons as to why the Planning Authority refused planning permission in the first instance. It is a fact that Rowlestown is overdeveloped; the scheme proposed is contrary to local, regional and national planning provisions; there is inadequate infrastructure, services through to amenities within this village to cater for quantum of additional residents such a scheme would give rise to; this quantum of growth taken with recently constructed and permitted schemes can not continue in a manner that continues to erode the character of this modest village and put significant strain on its limited resources alongside resulting in scheme that would be highly

unsustainable due future occupants high reliance on private vehicles for journeys across all sectors of trips with the additional traffic movements on Church Road having the potential to give rise to further deterioration of this road and additional safety issues for existing road-users.

- 8.3.8. **Built Heritage:** As part of my site inspection, I stood on the western side of Lispopple Bridge, a Protected Structure (RPS Ref. No. 336) and also listed in the NIAH (NIAH Ref. No. 11327002) and took in the views from this bridge towards the site itself in the direction of Rowlestown.

Having done so it is my view that the proposed development, if permitted, subject to appropriate boundary treatments that are sympathetic to the site's location on greenfield land where the characteristic boundary treatments are native hedgerows together with the use of an appropriate palette of materials would not adversely diminish the visual amenities of this historic bridges setting as it would subject to safeguards and the separation distance not highly visible.

I also raise a concern in relation to the expansion of the settlement through recent developments like that now proposed under this application and, if permitted, this development would place further strain and burden on this historic bridge due to this development resulting in additional volumes of traffic. Including larger vehicles with heavier loads during the construction phase.

Therefore, any grant of permission would in my view need for this concern to be appropriately provided for in the construction management plan so that this historic bridge does not result in any structural damage, loss of original built fabric through to diminishment of its integrity and contribution to its landscape setting.

- 8.3.9. **Archaeological Heritage:** A geophysical survey of the site was undertaken by the applicant as part of addressing the Planning Authority's further information request.

Alongside the fact that the site is located on the boundary of a historic townland and is located near to a former mill race located to the north of the Broadmeadow River this survey found that adjacent to Phase 2 portion of the residential scheme that there is possibly a ring enclosure present.

The archaeological appraisal carried out considered that the proposed development had the potential to adversely impact upon previously unrecorded archaeological features that may be present.

As part of its recommendations, it included that the Bronze Age Ditch on the east of the site should not be damaged or disturbed as a consequence of any grant of permission and that other standard archaeological safeguards be adopted during the construction phase of the development.

Should the Board be minded to grant permission for the proposed development I consider that as the site has the potential for archaeological discoveries to be made that a suitable condition be imposed alongside a suitable buffer zone provided around the Bronze Age Ditch to safeguard its integrity.

8.3.10. **Bats:** All Irish bats are protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat included under Annex II also). The applicant's further information response is accompanied by a document titled 'A bat assessment of the site in Lispopple, County Dublin'.

It indicates that four species of bat were found feed and commuting with most of the activity being concentrated along the river and over the scrub near the grass land with little activity over the cultivated cabbage field. The main two bat species identified were Daubenton's bats and Soprano Pipistrelles.

It also indicates that there were no roosts present and that there was low potential for roosting. This report recommends the retention of the strip of scrub, hedgerow, and grassland along the river. If these were lost the bat species would suffer a loss of feeding and shelter.

It supports the provision of two ponds within the scheme as this would improve insect biodiversity and therefore increase feeding opportunities for the bat species.

It recommends that if any bats are discovered during any stage of the development that works should cease with contact with the author and a wildlife ranger.

In terms of any lighting scheme caution is advised as it indicates that Daubenton bats are particularly intolerant of light and that there must be no light spillage onto the Broadmeadow River with a dark sky area incorporated into the overall scheme. In addition, it recommends that pollution be kept to a minimum.

While I concur with the recommendations and conclusions of this Bat Assessment, I raise a concern that this assessment appears to be part informed by one survey of the

site. This occurred on the 22nd day of July, 2020, between the hours of 05.26 and 21.36.

Should the Board be minded to grant permission for the development sought under this application I recommend that an appropriate condition be included and that the recommendations of this report at a minimum are required with further requirement for additional surveying to be carried out of the site prior to the commencement of development and with this also subject to prior written agreement with the Planning Authority.

8.3.11. **Noise Zone:** The site is located within Noise Zone D due to its proximity to Dublin Airport and I noted during my inspection that a small number of large aircraft departed from and landed at Dublin Airport. Should the Board be minded to grant permission for the proposed development an appropriate noise condition should be imposed to ensure that future occupants of the proposed housing units have a high-quality internal amenity.

8.3.12. **Capacity Issues:** It would appear from the 3rd Party submissions on file that the local national school in the village is near capacity and that it is probable that there will be insufficient capacity to absorb some of the already permitted residential schemes that are under construction. The documentation submitted with this application fails to demonstrate that there is capacity in terms of the only local educational institution, creches and the like that are available within the village to accommodate this development, if it were permitted, alongside other recently permitted residential developments and those that are currently under construction. The rapid expansion of this village's population and the type of residential units that characterise residential schemes permitted in recent times are mainly comprised of three and more bedroom dwellings. These types of dwellings are more probable than not to be occupied by families. I am therefore not convinced based on the information provided that this village has the capacity to absorb the additional demands this proposed development would generate in terms adding significantly to the stock of three and more bedroom dwellings. I also consider that it would be highly probable that future occupants would be reliant on travelling to other settlements by car to meet their children's educational and other childcare needs.

9.0 Recommendation

- 9.1. I recommend that planning permission be **refused** for the reasons and considerations set out below. The Board may consider Reason and Consideration No. 3 to be a new issue in their determination of this appeal case.

10.0 Reasons and Considerations

1. Having regard to the location of the proposed development in the rural village of Rowlestown and Regional Policy Objective 4.83 of the Regional Spatial and Economic Strategy for Eastern and Midlands Area, 2019 to 2031, which seeks to 'support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans' and the Fingal Development Plan, 2017 to 2023, the policy for villages like Rowlestown which seeks that these villages will be managed to ensure these centres do not expand rapidly, putting pressure on services and the environment and creating the potential for unsustainable travel patterns. In addition, the Development Plan also seeks to ensure that future growth in commuter villages like Rowlestown be curtailed or safeguarded so that they do not act as a catalyst to facilitate continuing expansion of unsustainable growth patterns. With this being further advocated by the National Policy Objective 15 of National Planning Framework which seeks that the growth of rural areas under strong urban influence should be managed to avoid overdevelopment. It is therefore considered that the proposed development would be contrary to the local and regional settlement hierarchy and strategy as well as national policy objective NPO 15 and as such, it would be contrary to the proper planning and sustainable development of the area.
2. Due to the peripheral location of the site, the substandard nature of the road network serving the site with it being deficient in footpaths, cycleways, lighting through to traffic calming measures, it is likely that the proposed development, if permitted, would give rise to an over reliance on private car use for both local and non-local trips across all journey types. For this reason, it is considered that the proposed development would be contrary to Objective SS03 of the Development Plan which seeks to prevent car dependent urban sprawl and would also be

contrary to national and regional policy which seek to achieve sustainable patterns of development at appropriate locations.

3. Having regard to the substandard nature of the road network upon which the proposed development is dependent upon development of the kind proposed that would give rise to significant additional traffic movements, with the residential scheme being poorly accessible by foot or bicycle to the limited amenities and services within this village upon which future occupants would benefit from proximity to would be premature pending the determination of improvements to the road design and layout for Church Lane as well as the public road network of the area.
4. It is the policy of the planning authority, as set out in the Fingal Development Plan 2017 to 2023, to ensure that the design and layout of all residential schemes to have regard to the character of the area and to achieve attractive and sustainable development through better design. This is similarly advocated by the "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" published by the Department of the Environment, Heritage and Local Government in May, 2009, which also requires a high-quality approach to the design of new housing. Having regard to the proposed development design and layout concept, it is considered that the development would constitute a suburban residential type of development inserted into a highly prominent location along Church Road at the easternmost periphery of Rowlestown Village. The overall design resolution would result in an unattractive entry into this settlement that would fail to harmonise with the pattern of development to the west of it and with the intrinsic prevailing character and attributes of this settlement. It is considered that the proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

10th day of May, 2021.