



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310304-21

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<b>Development</b>	Construction of 5 no. 2 storey dwellings
<b>Location</b>	28 to 32 incl. Holsteiner Park, Clonee, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	21422
<b>Applicant(s)</b>	Sherwood Investment Properties Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Sherwood Investment Properties Limited.
<b>Observer(s)</b>	William Doran for Holsteiner Park Residents
<b>Date of Site Inspection</b>	18 <sup>th</sup> October 2021.
<b>Inspector</b>	Elaine Sullivan



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## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 1.14ha and is located c.1.5kms to the south of the village of Clonee. It is within the gated residential development of Holsteiner Park, which was constructed on lands within the former Williamstown Stud and is partially completed. The R149 runs to the north and west of Holsteiner Park and connects Clonee with Lucan.
- 1.2. All of the houses completed to date have been developed in the northern section of the lands. Access to the development is from the R149 via a secured gate located in the north -eastern corner of the site. The subject site is located to the south of the existing houses and to the rear of No's 23 and 24. It is a relatively flat, greenfield site which is bound by a mature hedgerow along the northern and western boundaries. To the east and south, the site is bounded by greenfield areas with the residential development of Kribensis along the southern boundary.
- 1.3. Although the site is in close proximity to the developments of Ongar and Hansfield to the south, the surrounding area is rural in nature. The existing development in Holsteiner Park comprise large, two storey detached houses laid out in cul-de-sac format. There are no footpaths or pedestrian/cycling links in the area or along the public road and there is no pedestrian connection to the nearby village of Clonee to the north or to the developments of Ongar/Hansfield to the south. The rural road network is generally narrow and busy and the site is close to the Meath/Fingal County boundary.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the construction of 5 no. 2 storey, 5 bedroom, detached houses each with a floor area of 318m<sup>2</sup> and 5 no. detached garages.
- 2.2. Permission is also sought for the completion of internal access road, grass verges and footpaths and all associated services, landscaping and boundary treatments with vehicular and pedestrian access via the Holsteiner Park development. The internal access road would pass through two adjoining greenfield areas to connect with the existing roundabout.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was refused by the Planning Authority for one reason, which is outlined below.

1. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee, as well as to the south of the junction of the L2223 and the R149 linking in with existing developments in Ongar. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature, pending the determination by the Planning Authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the Planning Officer informed the decision of the PA which was made on the 28<sup>th</sup> April 2021. The report includes the following,

- The principle for the proposed development on the subject site is acceptable in consideration of Development Plan objective RES OBJ 6 – which allows for the completion of the 3 no. phases of the registered ‘Unfinished Estate’ residential development at Williamstown Stud as originally permitted under Reg. Ref. DA/40501.
- However, with regard to recent planning history for the site, and in particular, planning Reg. Ref. no. RA190406, (ABP-306533-20), which was refused for 1 reason, (and planning Ref. RA200895, which was refused for 3 no. reasons), it is considered that permission should be refused.

### 3.2.2. Other Technical Reports

#### Transportation Department –

- The proposed development does not include any of the infrastructures required to provide safe and convenient pedestrian and cycle access to facilities in Clonee, as well as to the south of the junction of the L-223 and the R-149 linking in with developments at Ongar.
- The footpaths and roadways within the development are constructed of bituminous bound material with little distinction between the two and with no tactile paving for visually impaired people.
- The parent permission, DA40501, included footpaths and cycle paths through the entire development connecting all of the phases. The footpaths connecting Holsteiner Park and Kribensis Manor to the south have not been included in the application.
- The turning bay shown at unit No. 32 is too small and does not comply with the requirements of the 'Recommendations for Site Development Works in Housing Areas', (DOEHLG, 1998).
- The development is premature pending the completion of the required footpaths and cycle infrastructure to connect the development to Clonee and Ongar.
- It is recommended that planning permission is refused for the development.

#### Water Services –

- The development broadly meets the requirements of the Water Services Section with regard to the orderly collection, treatment and disposal of surface water. Planning conditions are recommended should permission be granted.

#### Fire Service Department –

- A Fire Safety Certificate Application is not required for the development under Part III of the Building Control Regulations.

#### Transportation Department / Public Lighting –

- Request that the applicant submit a public lighting design in accordance with the 'Meath County Councils; Public Lighting Technical Specification & Requirements'.

Housing Department –

- No report on file – comments in the report of the PO that a Part V agreement is in place for the parent permission, Ref. DA/40501.

### 3.3. **Prescribed Bodies**

- DAA – No comment.
- Irish Water – No objection.

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

Three third party observations were received by the PA during the public consultation phase. They included the following issues;

- Land ownership – there is an easement in place to allow the applicant a right to construct an access to their development over third party lands based on the design of DA40501, which has now expired. Consent is withheld until the applicant consults with the third parties.
- Surface water drainage & mains connections for the adjoining property at Stonewell.
- Queries regarding land ownership and administrative issues in application.
- Piecemeal development as the original permission is defunct.
- Completion of public spaces and common areas will not occur if sites are developed individually.
- Pedestrian & cycle connections to wider areas are non-existent.
- Impact on privacy of existing houses.

### 3.5. Planning History

There is an extensive planning history for the site and the adjoining sites. The most relevant planning applications and decisions are listed below.

#### On the subject site:

- **RA/200895** – Planning permission refused by the PA for development on the subject site on the 2<sup>nd</sup> September 2020. The proposed development was for the construction of 5 no. 2 storey detached dwellings with garages and internal access road. The development was refused for 3 reasons.
  1. *The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee, as well as to the south of the junction of the L2223 and the R149 linking in with existing developments in Ongar. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature, pending the determination by the Planning Authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
  2. *It is proposed to provide a temporary construction access to the development via a new vehicular entrance onto the adjacent Regional Road (R149). The applicant has not demonstrated sufficient sightlines of 2.4m x 160m in both directions. The proposed development, as presented, is considered to represent a traffic hazard and is not therefore in the interests of proper planning and sustainable development of the area.*
  3. *The proposed development, by reason of the extent of natural mature boundary removal necessitated in order to achieve appropriate sightlines, is such that it will conflict with Policy NH POL 16 of the Meath County*



*Development Plan, 2013 to 2019, as varied, which seeks to 'maintain the natural heritage and amenity of the county by promoting the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees'. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.*

Relative to the subject site:

- **RA/171334** – Permission granted by the PA on the 17<sup>th</sup> of January 2017 for the construction of change of house type from 4 to 5 bedroom house together with associated garage and all ancillary works. DA/40501, DA/800769 and DA/130515 relate.
- **DA/130515** – Permission granted by the PA on the 3<sup>rd</sup> September 2013 for an Extension of Duration of Reg.Ref. DA/800769 for 5 years at Phase 2 of DA/40501 and to proceed with the 32 no. houses etc.
- **DA/800769** – Permission granted by the PA on the 16<sup>th</sup> of May 2008 for a change of house design for a number of houses within the scheme in the Holsteiner part of the development. This included regard to Reg.Ref. DA/40501 and sought permission to proceed with the construction of the 32no. houses and entrance at phase 2 of this development, and that such a permission would last 5 years from the date of issue.
- **DA/40501** – Parent permission. Permission granted by the PA in 2005 for a Residential Development of 99 no. 4 and 5 bedroom houses on a site of c. 23.67ha approx. comprising 3 no. phases with 3 no. vehicular access points off the Clonsilla, Dunboyne and Lucan roads respectively, to include all associated site development works, infrastructural works, open spaces and landscaping.

Relevant Planning History on adjoining lands:

**ABP311455-21 – (PA Ref. RA211299)** – At the time of writing, a decision was pending on this appeal. Planning permission was refused by the PA on the 26<sup>th</sup> August 2021 for development comprising 6 no. detached, 5 bedroom dwellings on a

site within Holsteiner Park and adjacent to the subject site. Planning permission was refused for the following reason:

- 1. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee, as well as to the south of the junction of the L2223 and the R149 linking in with existing developments in Ongar. Therefore, in the absence of a definitive provision for the rectification of these deficiencies, the proposed development would be premature, pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

**ABP306533-20, (PA Ref. RA190406)** – Planning permission refused by the Board on the 13<sup>th</sup> July 2020 for the development of 6 no. 2 storey detached dwellings on a site within Holsteiner Park and directly adjoining the appeal site. Permission was refused for the following reason;

- 1. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee, as well as to the south of the junction of the L2223 and the R149 linking in with existing developments in Ongar. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature, pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

**RA/191224** – On the site to the east of Holsteiner Park, permission was granted by the PA on the 17<sup>th</sup> January 2020 to John Hughes & Angela Rice & Mark Rice for 32 no. 4 & 5 bedroom houses including a new vehicular entrance onto the L2223 (Clonee to Clonsilla Road) and associated footpath and cycle path provision along the L2223, internal access roads and pedestrian and cycling connections to the development permitted under DA/40501 and DA/800769 and all ancillary site infrastructure works etc. The proposed development also included the provision of a four arm roundabout at the L2223 (Clonee to Clonsilla Road and the R149 (Lucan Road) Junction to the north of the site with associated pedestrian and cycle infrastructure, along with the provision of road improvement works, pedestrian and cycle infrastructure on the eastern side of the R149 extending northwards towards Clonee, and all associated site works. The decision was subject to 26no. conditions. Condition no. 3 is of note relevant to the current application and is as follows:

- a) *Prior to the commencement of development onsite the applicant shall submit for the written agreement of the PA, detailed designs for the R149/L2223 junction. This shall include, but not limited to, footpaths, cycleways, drainage, public lighting and pedestrian crossings. The applicant shall also submit the detailed design for works required along the R149, including the proposed footpath, cycleway drainage and public lighting, linking the proposed development to the Summerseat residential development.*
- b) *The Applicant shall provide a footpath and cycleway along the R149 and L2223 roadside boundaries.*
- c) *The above works (items a and b) shall be completed in tandem with the completion of the development and phasing of same shall be agreed in writing with the PA prior to the commencement of the development. No more than 12 houses shall be occupied prior to the completion of the above works. Reason: In the interests of public safety.*

*Reason: In the interests of public safety.*

**PL17.249404, (PA Ref. RA/170511)** – Permission granted by the PA but subsequently refused by the Board on the 27<sup>th</sup> March 2018 for 32 houses and associated works. This included a new vehicular entrance onto the L2223 (Clonee to Clonsilla Road) and associated footpath and cycle path, internal access roads and

pedestrian and cycling connections to the development permitted under DA/40501 and DA/800769 and all ancillary site infrastructure works etc. This was refused by the Board for 2no. reasons as follows:

- 1. Having regard to the fact that the lands that are the subject of the application for development are not zoned for residential development, and that the only basis for permitting residential development on these lands relates to Objective RES OBJ 6 of the Dunboyne/Clonee/Pace Local Area Plan 2009 – 2015, which stated “To facilitate the completion of the three number phases of the registered ‘Unfinished Estate’ residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference DA/40501...”, and having regard to the fact that the proposed development is materially different to the layout authorised by that planning permission, and does not encompass the entire site of that development, it is considered that the proposed development would represent haphazard and uncoordinated residential development which is not justified by any statutory Development Plan zoning or objective and would, therefore, be contrary to the proper planning and development of the area.*
- 2. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.*

## 4.0 Policy Context

### 4.1. Meath County Development Plan 2021-2027

- 4.1.1. The site is located within the administrative boundary of Meath County Council. The operative Development Plan for the area is the Meath County Development Plan, (CDP), 2021-2027, which came into effect on the 3<sup>rd</sup> November 2021.
- 4.1.2. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019, which was the operative Development Plan at the time.
- 4.1.3. On review of the contents of both plans I note that there are no material changes between the 2013 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2021 – 2027 Meath County Development Plan.
- 4.1.4. The following sections of the Meath County Development Plan 2021-2027 are relevant to the proposed development;

**Zoning** - The subject site is zoned objective RA – ‘Rural Area’, which has the objective, *‘To protect and promote in a balanced way, the development of agriculture, forestry and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage’*.

Residential use is listed as a permitted use within this zoning.

### Chapter 3 – Settlement & Housing Strategy

**SH POL 1** – To ensure that all settlements, in as far as practicable, develop in a self-sufficient manner with population growth occurring in tandem with the provision of physical and social infrastructure.

**SH POL 2** – To promote the consolidation of existing settlements and the creation of compact urban forms through the utilisation of infill and brownfield lands in preference to edge of centre locations.

**SH POL 3** – To support the creation of healthy and sustainable communities that encourages and facilitates walking and cycling and general physical activity through the implementation of best practices in urban design that promotes permeability and interconnecting spaces.

**SH POL 5** - To secure a mix of housing types and sizes, including single storey properties, particularly in larger developments to meet the needs of different categories of households.

**SH POL 8** - To support the creation of attractive residential developments with a range of housing options and appropriate provision of functional public and private open space that is consistent with the standards and principles set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the associated Urban Design Manual – A Best Practice Guide, DEHLG (2009) and any subsequent Guidelines.

**SH POL 9** - To promote higher residential densities in appropriate locations and in particular close to town centres and along public transport corridors, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

**SH POL 10** - To require that applications for residential development take an integrated and balanced approach to movement, place making, and streetscape design in accordance with the requirements of the Design Manual for Urban Roads and Streets, DTTS and DECLG (2013 and updated in 2019).

**SH OBJ 5** - To prepare new local area plans for the following settlements within the lifetime of this Plan: Navan, Dunboyne/Dunboyne North/Clonee, Ashbourne, Kells, Trim, Dunshaughlin, Ratoath, Bettystown-Laytown-Mornington East-Donacarne- Mornington, Oldcastle, Athboy, Duleek, and Stamullen.

### **11.5.1 – Residential Development**

**11.5.3 – Density** - In general the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on ‘Sustainable Residential Development in Urban Areas’ (2009) or any update thereof.

**DM POL 5** - To promote sustainable development, a range of densities appropriate to the scale of settlement, site location, availability of public transport and community facilities including open space will be encouraged.

**DM OBJ 14** – The following densities shall be encouraged when considering planning applications for residential development;

- Smaller Towns and Villages: 25uph - 35 uph
- Outer locations: 15uph – 25uph

#### **11.5.8 – Dwelling Design, Size & Mix**

All residential schemes should ensure an appropriate mix of housing typologies and unit sizes to support the provision of a variety of household types and tenures that accord with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

**DM POL 6** - To require that the unit typologies proposed provide a sufficient unit mix which addresses wider demographic and household formation trends.

**DM OBJ 22** – The design of any housing scheme shall have regard to the requirement for connectivity between residential areas, community facilities etc. The design of any walkways, lanes of paths connecting housing estates or within housing estates shall be of sufficient width to allow for the safe movement of pedestrians and cyclists. They shall be adequately overlooked and lit and not be excessive in length.

#### **11.5.11 – Public Open Space**

Public open space within residential developments should be designed so as to complement the residential layout and be informally supervised by residents. A variety of types and sizes of open spaces should be provided at suitable locations to cater for the active and passive recreational needs of children and adults of all ages.

#### **11.5.13 – Boundary Treatments**

**DM POL 9** - To support the retention of field boundaries for their ecological/habitat significance, as demonstrated by a suitably qualified professional. Where removal of

a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, mitigation by provision of the same boundary type will be required.

#### 4.2. **Dunboyne Clonee Pace Local Area Plan 2009-2015**

The subject site is within the boundary of this LAP, which was amended in March 2015 to insert the following:

**RES OBJ 6:** *To facilitate the completion of 3 phases of the registered ‘unfinished estate’ residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference number D4/40501. The 99 residential units at Williamstown Stud were included in the ‘committed unbuilt units - Rural Houses in table 2.4 and table 2.5 of the core strategy of the Meath County Development Plan 2103 – 2019, as varied. No extension of the duration of any planning permission shall extend beyond the lifetime of the existing County Development Plan, that being 16th December 2018’.*

It is also of note that, whilst the subject site and the wider development site at the former Williamstown Stud are within the boundaries of the LAP, they are not included within the zoned land for the LAP.

This LAP has now expired and the Meath County Development Plan 2021-2027 contains an objective to prepare a new LAP for lands at Dunboyne/Dunboyne North/Clonee, (SH OBJ 5).

#### 4.3. **National Policy**

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

The NPF 2040 was adopted on the 29th May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

Chapter 6 – People Homes & Communities



**NPO 27** - 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.

**Section 6.6** - It is envisaged that Ireland's future homes will;

- be located in places that can support sustainable development - places which support growth, innovation and the efficient provision of infrastructure, are accessible to a range of local services, can encourage the use of public transport, walking and cycling, and help tackle climate change;
- still be located in our smaller towns, villages and rural areas, including the countryside, but at an appropriate scale that does not detract from the capacity of our larger towns and cities to deliver homes more sustainably.

**4.4. Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009**

The guidelines set out the key planning principles which should be reflected in development plans and local area plans, and which should guide the preparation and assessment of planning applications for residential development in urban areas.

**4.5. Regulation of Commercial Investment in Housing, (Guidelines for Planning Authorities, May 2021).**

Ministerial Guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended), seek to address the regulation of commercial institutional investment in certain housing developments.

The Guidelines are relevant in this instance as they relate to residential development that includes 5 or more houses or duplexes that are not specified as 'build to rent' development at planning stage.

They require that planning conditions be attached to restrict new houses and duplexes to first occupation and use by individual purchasers and those eligible for

social and affordable housing including cost-rental, in order to ensure an adequate choice and supply of housing.

#### **4.6. Natural Heritage Designations**

No designations apply to the subject site.

#### **4.7. EIA Screening**

- 4.7.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 4.7.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- 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. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 4.7.3. It is proposed to construct 5 detached houses on a greenfield site within a partially finished housing estate. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The subject site has an area of 1.14ha and is located within a greenfield site. The site area is therefore well below the applicable threshold of 20 ha. The site is located to the south of existing housing within a residential estate. The introduction of an additional five houses will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site as discussed below and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or

risks to human health. The proposed development would use the public water and drainage services of Irish Water and Meath County Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are adjacent to existing residential development.
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## **5.0 The Appeal**

### **5.1. Grounds of Appeal**

The grounds of appeal include the following;

- The subject application is a repeat application to that previously submitted under Ref. RA/200895, which was refused for 3 no. reasons. Reasons 2 & 3 related directly to the temporary construction entrance proposed on to the

R149 on the western side of the site. This temporary access has been removed in the subject application in response to the reasons for refusal.

- Planning permission for a similar development on the adjoining site was refused under ABP-306533-20 due to the lack of safe pedestrian and cycle access to facilities and services in the nearby settlements of Clonee and Ongar. In the report, the PI concluded that the proposed development was premature pending the provision of infrastructure as per Condition No. 3 of RA191224.
- It is therefore clear from the Board's decision that the premature nature of the development was linked to the provision of infrastructure to be delivered as a requirement of RA191224. As this development has now commenced the proposed development is no longer premature.
- With regard to the deficiencies in safe and convenient pedestrian and cycle access to the south of the junction of the L223 and the R149 linking in with existing developments in Ongar, it should be noted that the applicant agrees that prior to the occupation of the dwellings in the current application, a financial contribution will be paid to the planning authority to facilitate these works. This could be dealt with by Special Development Contribution.
- It should be noted that as part of the current infill planning application it would not be possible to provide infrastructure outside the curtilage of the planning application on the lands that are within the ownership of the applicant.
- Whilst the land is zoned RA – Rural Area, the completion of the three phases of development is considered desirable by the planning authority as it evident from the planning permissions that have been granted and as per Objective RES OBJ 6 of the Dunboyne / Pace LAP.
- It is clear that the long awaited improvements in the local infrastructure are now imminent. The applicant would accept a condition that restricts the occupation of any houses until such time as the local road improvements have been completed.
- The Transportation Department report notes a number of deficiencies in the internal road layout of the Holsteiner Park development. The original planning

permission that was granted for the Phase 2 development was based on a shared surface road layout. There have been no changes in this design since the permission was implemented.

- It would not be appropriate or reasonable to require a re-design of the internal road layout. However, the turning area can be increased to a 10m radius.
- With regard to submissions by third parties regarding adequate legal interest to carry out development, please note that a legal agreement is in place which gives the applicants full access rights over the Phase 2 lands. A letter from Peter Neligan of Neligan Solicitors is attached to the grounds of appeal.

## 5.2. Planning Authority Response

A response from the PA was received on the 18<sup>th</sup> June 2021 and includes the following;

- The PA is satisfied that all matters outlined in the appeal were considered in the course of its assessment of the planning application as detailed in the planning officers report.
- The proposed development, as per the recommendation of the Transportation Department, is considered to represent a traffic hazard.

## 5.3. Observations

One observation was received from William Doran on behalf of 17 residents in Holsteiner Park. The observation notes that there are four other houses in the estate that remain unsold. The observation includes the following;

- The address of the site is given as 28-32 incl. Holsteiner Park, which is misleading as they are proposed house numbers.
- There is no access to the site from Holsteiner Park and the site does not have a right-of-way through the site. A letter from David Powderly, solicitor, is provided with the observation.
- A Statutory Receiver is listed on the folio burdens for three land registry folios within the wider development. It is queried as to whether the Statutory

Receiver may have an interest in part of the subject site and whether or not his consent is required for the application.

- A drainage plan was not submitted for the development.
- A letter of consent from the freehold owner of the access road was not submitted with the application. The owners of each existing dwelling are members of the Holsteiner Management Company CLG and they do not consent to an access to the subject site being granted to the applicants.
- No boundary treatment is proposed to ensure privacy to the rear of No's 21, 22 and 23 Holsteiner Park.
- The proposed development is piecemeal in nature. The original permission, DA40501, related to the wider site and included a pedestrian/cycle way through the estate. It would appear that this will not be completed as the remainder of the original lands are not within the control of the applicant.
- The remaining sites in Holsteiner Park appear to be in the ownership of several separate entities. There is a concern that the land will be sold off plot by plot with no overall responsibility for common areas.
- The applicant does not have control over the incomplete public open space and does not propose open space within the applicant site to cater for this obligation.
- There are no safe pedestrian or cycle connections to services outside the estate or to public transport.

## 6.0 **Assessment**

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

- Legal & Procedural Issues
- Principle of Development

- Amenity & Impact of Development
- Access Permeability & Connectivity
- Appropriate Assessment

## 6.2. Legal and Procedural Issues

6.2.1. A number of issues were raised by third parties to the appeal that relate to the validity of the planning application and whether or not the applicant has sufficient legal interest to carry out development on the site. I note that the Planning Authority deemed the application to be acceptable under the requirements of Article 22 of the Planning and Development Regulations 2001, (as amended). As part of the application the applicant submitted a letter from Peter Neligan of Neligan Solicitors stating that the consent of the owners of lands outside the blue line is not required. Registered against these land folios as a burden are easements which facilitate the development of Williamstown Stud. This information has also been submitted under the grounds of appeal.

6.2.2. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. In any case this is a matter to be resolved between the parties, having regard to the provisions of S. 34(13) of the Planning and Development Act 2000 (as amended). Furthermore, under Chapter 5.13 of the 'Development Management – Guidelines for Planning Authorities', (DoECLG 2007), it states, inter alia, the following: *'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...'*

## 6.3. Principle of Development

6.3.1. The subject site is located within a partially completed, residential development called Holsteiner Park. Although the site is a greenfield site it can also be considered to be an infill site as there are houses to the north and south. It is zoned

RA - 'Rural Area' and residential use is listed as a permitted use within this zoning subject to the provisions of the Rural Settlement Strategy.

- 6.3.2. There is a lengthy planning history to the site and the surrounding lands. Planning permission was originally granted under Ref. DA40501 for development of 99 houses on lands at the former Williamstown Stud, which included the subject site. This development was to be constructed in three phases with three no. vehicular access points from the Clonsilla, Lucan and Dunboyne roads respectively. All applications associated with the original parent permission have now expired. As per the original application, the development site has been divided into three phases.
- 6.3.3. Phase 1 comprises the north-eastern portion of the overall lands, which is now being developed under PA Ref. RA 191224. This will allow for the construction of 32 no. detached, two storey houses with associated infrastructure works to provide footpaths and cycle paths along the public roads at the site boundaries.
- 6.3.4. Phase 2 comprises the north-western portion of the lands, which has partially been developed as Holsteiner Park. This development was permitted under PA Ref. DA/800769 which allowed for the construction of 32 detached houses. This permission was not implemented, and it was extended to 2018 under PA Ref. DA/130515. To date 21 of the 32 houses have been constructed. The current application is for an additional 5 houses in the south-west corner of Holsteiner Park. The remaining 6 houses would be located on a site adjoining the subject site to the north east. Permission was refused for these houses under PA Ref. RA190406 and was upheld on appeal under ABP 306533-20. A subsequent application for the same development is currently on appeal to An Bord Pleanála, (Ref. ABP311455-21, PA Ref. RA211299), and a decision is yet to be made.
- 6.3.5. Phase 3 comprises the southern part of the site, which has been substantially developed as Kribensis Manor and comprises 35 houses.
- 6.3.6. Based on the planning history for the site and the surrounding pattern of development, I am satisfied that the principle of residential development on the site has been established and is acceptable.
- 6.3.7. I note that since the original planning permission was granted for the wider site, national and local policy has evolved with a strong focus on consolidating development in existing settlements and increasing density. The subject site is a



greenfield site located within an unfinished, low-density housing estate and forms part of a legacy development that was permitted under previous planning policy. Whilst the lands around the site are rural in character, the development is on the outskirts of the urban developments of Hansfield and Ongar and is just 1.5km from the village of Clonee. Hansfield train station is approximately 2.5km from the entrance to the site but at the moment there is no safe way to get there by walking or cycling as there are no connections to adjoining settlements. This unsafe environment necessitates the use of car-based travel to and from the site.

- 6.3.8. National policy seeks to increase density in appropriate locations, i.e. near to public transport and on infill sites. The subject proposal would yield a low-density development of just 4 units per hectare, which comprises large detached houses within a development of similar style housing. I note that SH POL 5 of the Development Plan seeks to provide a mix of housing types and sizes in housing developments and that SH POL 2 seeks to promote the consolidation of existing settlements and the creation of compact urban form through the utilisation of infill and brownfield lands in preference to edge of centre locations.
- 6.3.9. Section 11.5.3 of the CDP states that a density of 15-25 units per hectare shall be encouraged in 'outer areas'. However, cognisance should also be had to the prevailing scale and pattern of development in the locality. Whilst the proposal is at odds with current planning policy, the history of the site and the prevailing character of development is acknowledged. Within this context the proposed development can be considered.

#### **6.4. Amenity & Impact of Development**

- 6.4.1. The proposed development is for 5 large, detached dwellings laid out in a row and backing onto existing housing of a similar style and scale. The standards for new residential development are set out in Section 11.5. of the Development Plan. All of the units both meet and exceed the Development Plan standards in terms of size, layout and private open space. The houses would be centrally positioned on large sites with separation distances between opposing dwellings that range from 47m to 83m. All habitable rooms would have natural light and ventilation and by virtue of

their orientation and design, each of the houses would receive adequate levels of daylight and sunlight.

- 6.4.2. I am satisfied that the proposed dwellings would provide a sufficient level of residential amenity for future residents. However, I note that the proposal would not contribute to a mix of unit typologies for the wider estate and would instead provide more of the same large-scale housing. This is contrary to Development Plan policy SH POL 5 which requires a mix of unit types and also with national policy contained in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, which promotes the delivery of accommodation that caters for a diverse range of household types and age groups.
- 6.4.3. In terms of impact on existing residential amenity, the key aspects relate to overlooking and/or overshadowing of adjoining properties to the north-west of the proposal. The proposed houses would back on to the rear gardens of No's 22 and 23 Holsteiner Park. As noted in the paragraph above the separation distances between opposing elevations range from 47m to 83m and as such are sufficient to mitigate against any overshadowing or overlooking. Furthermore, the existing boundary between both sites comprises a mature hedgerow and trees which would block any views between existing and proposed houses.
- 6.4.4. The applicant has not provided any details on whether or not the existing boundary would be retained or what boundary treatment is proposed to the rear of the proposed dwellings. I note that DM POL 9 of the Development Plan supports the retention of field boundaries for their ecological/habitat significance and, where the removal of a hedgerow is unavoidable, mitigation by provision of the same boundary type will be required. In this instance, the preferred option would be the retention of the existing mature boundary. Should the Board be minded to grant permission for the development, I recommend that a condition be attached that requires the retention of the existing mature hedgerow.
- 6.4.5. I note that there is no formal public open space for the existing development. Planning history for the site shows that the public open space was to be located to the front of the proposed houses in a linear strip along the southern boundary. This was not delivered in the initial development at Holsteiner Park. The current application does not include this area within its red line and as such it would not be

delivered as part of this permission. I note that there have been two previous applications for development on the adjoining greenfield site to the east of the subject site, (ABP306533-20, PA Ref. RA/190406 and PA Ref. RA/211299, which is currently on appeal, Ref. ABP 311455-21). Although the site to which those permissions relate also adjoins the area originally defined as public open space, it was not included in either application. The applicant has argued in the grounds of appeal that the proposed development is for the completion of the partially constructed development. However, this does not include the common areas which remain unfinished with no clear plan for their completion. As such there is no planning gain to be had for the existing houses in the estate.

- 6.4.6. The Regulation of Commercial Investment in Housing, (Guidelines for Planning Authorities, May 2021), were issued under Section 28 of the Planning and Development Act 2000 (as amended) and seek to address the regulation of commercial institutional investment in certain housing developments. The proposed development falls within the scope of the Guidelines as it includes *'5 or more houses or duplexes that are not specified as 'build to rent' development at planning stage'*. Should permission be granted for the development, I recommend that a planning condition be attached to restrict the new houses and duplex units to first occupation and use by individual purchasers and those eligible for social and affordable housing, including cost rental.
- 6.4.7. Whilst I accept that the subject proposal reflects the existing pattern of development and would provide a similar style of housing, the provision of a low-density development of a singular housing typology is not in keeping with national policy or the policies and objectives of the Meath County Development Plan.

## 6.5. Access, Permeability and Connectivity

- 6.5.1. The PA's reason for refusal states that the proposal would give rise to additional vehicular, pedestrian and bicycle traffic on a substandard road network which is deficient in dedicated pedestrian and cycle infrastructure and that there is a lack of connections between the site and the nearby settlements. In the grounds of appeal the applicant argues that the adjoining development to the north-east of the site, (permitted under Ref. RA/191224), is obliged under Condition No. 3 of the

permission to provide pedestrian and cycle facilities along the boundaries of the R149 and the L2223 and that the delivery of this infrastructure will improve connections from the subject site to the adjoining settlements. As the delivery of this infrastructure is imminent, the proposed development cannot be considered to be premature. The applicant is also willing to accept a planning condition limiting the occupation of the houses until such time as the infrastructure / connection is in place.

- 6.5.2. Under the permission for the adjoining site a pedestrian footpath and cycle path will be constructed along the public road to the north-east of the entrance to Holsteiner Park. On completion of this infrastructure this will provide a safer pedestrian and cycle connection from the subject site to the neighbouring developments to the north and east, i.e. Summerseat and Ongar. Whilst pedestrian and cycle facilities will be improved to the north-east of the subject site and the Holsteiner Park development, there will be no changes to the west and south of the site. The applicant is willing to accept a special development contribution under Section 49 of the Planning Act in order to help facilitate improvements in this area.
- 6.5.3. Pedestrian and cycle facilities will be improved by the implementation of the development to the north-east of the site and construction has now commenced on this site. However, I note that the connections along the public road would be limited to specific developments to the north and east of the subject site. As the site currently under development is in separate ownership, the applicant has no input or guarantee as to when the works would be completed. Although the applicant has offered to pay a special development contribution to improve connections to the south and west of the site, delivery of any meaningful connection would be costly and complicated given the location of the site and could result in a lengthy timeframe for delivery.
- 6.5.4. I acknowledge that connections to and from the site are poor but would be somewhat improved by the infrastructure to be delivered under RA/191224. However, this would still result in a poorly connected residential development in a rural area that would rely heavily on car based transport. I would agree with the conclusion of the PA that the proposed development would give rise to additional movements to and from the site on a road network that is deficient in pedestrian and cycle facilities and public lighting and that this would lead to a reliance on car based travel and unsustainable travel patterns.

6.5.5. The report from the Transportation Department made reference to deficiencies in the quality of the public realm within the existing estate. The report noted that the environment is hazardous for visually impaired people as the footpaths are narrow with little distinction between the footpaths and roadways. Tactile paving has also not been used to indicate crossing areas. It is also noted that the original permission, (DA40501), included footpaths and cycle paths through the entire development, connecting all three phases and that the connections to Kribensis Manor to the south do not form part of the application.

6.5.6. In response to the comments, the applicant has stated that the public realm has been completed in accordance with DA/40501. I would share the view of the PA that the existing public realm does not provide a legible space for pedestrians and I would have a concern regarding the provision of the public realm in the proposed development. Details of the access road and footpaths have not been included in the application. The only reference to the public realm is on Drawing D1200-022, which states that the internal roads and services are to be constructed in accordance with planning permission DA/40501. I accept that the original public realm within the estate was of a shared-surface design, which was of its time. However, the provision of the public realm is now guided by the Design Manual for Urban Roads and Streets, (DMURS), which promotes the clear definition of spaces to aid pedestrian movement and safety and the clear demarcation of pedestrian crossings by the use of materials or dropped kerbs. (See Section 4.3 – Pedestrian and Cyclist Environment). The applicant has provided no details as to how the proposed development can comply with the provisions of DMURS and also connect with the existing public spaces. Should the Board be minded to grant permission for the development, I recommend that a condition be attached that all details of the internal access road and public footpaths are to be agreed in writing with the PA and are to be delivered to their satisfaction.

## 6.6. **Appropriate Assessment**

6.6.1. A Stage 1 Screening report does not accompany the application. In accordance with 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 Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, 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.

- 6.6.2. The proposed development is for five detached houses with associated works and access road on a greenfield site. The development would be connected to the mains water and waste-water infrastructure.
- 6.6.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 6.6.4. The closest Natura 2000 site is the Rye Water Valley/Carton SAC, (Site code 001398), which is c. 4.3km to the south-west of the site as-the-crow-flies. The Qualifying Interests of this SAC are;
- Petrifying springs with tufa formation (Cratoneurion) [7220]
  - Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]
  - Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]
- 6.6.5. The Conservation Objectives for the SAC are to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
- 6.6.6. There is no direct hydrological connection between the subject site and the nearest designated site and they are at some remove from each other overland. All of the relevant information has been reviewed and it is evident that the proposed development would not be likely to have significant effects on any European site, either individually or in combination with any other plan or project.
- 6.6.7. Having reviewed the documents and submissions and having regard to the nature and scale of the proposed development and the location of the site in a developed

utility compound with no direct or indirect connection via a pathway to a European site, I am satisfied that no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.0 Recommendation**

7.1. I recommend that planning permission be refused for the proposed development.

## **8.0 Reasons and Considerations**

2. The proposed development for five detached houses on lands which are zoned 'RA' would result in an inappropriate form of low-density development on rural lands with poor connections to services and adjoining settlements. As such the proposed development would not be in accordance with national guidance as set out in the National Planning Framework and the Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009, which seek to deliver consolidated development at suitable densities. The proposed development would also not be in accordance with SH POL 2 and SH POL 5 of the Meath County Development Plan 2021-2027 and would therefore not be in accordance with the proper planning and sustainable development of the area.
3. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee, as well as to the south of the junction of the L2223 and the R149 linking in with existing developments in Ongar. Therefore, the proposed development would be premature, pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Elaine Sullivan  
Planning Inspector

10<sup>th</sup> November 2021