



An
Bord
Pleanála

Inspector's Report ABP-310874-21

Development	Construction of 18 single-storey sheltered housing units with central open space area.
Location	Ratoath, Co. Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA201957
Applicant(s)	Michael Ryan.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Somerville Residents Association and others.
Observer(s)	None.
Date of Site Inspection	13 th January 2022.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located west of the Riverwalk Court apartment complex and has a stated area of 0.51ha. The site is of a previously developed nature, having been used as a construction compound as part of the development of the adjoining apartment development. It currently lies vacant and is enclosed by the Broadmeadow River to the north and a mix of mature trees and hedging along to the south. Block C of the Riverwalk Court complex bounds to the east, whilst the west boundary lies open.
- 1.2. The site is located in a predominantly residential neighbourhood. In addition to Riverwalk Court, the Somerville estate lies to the north, on the opposite side of the Broadmeadow River and the Clonkeen estate adjoins to the south. Somerville and Clonkeen are estates of primarily 2-storey detached and semi-detached housing, whilst Riverwalk Court is a 3-storey apartment complex that also contains commercial uses, including a Tesco store and 2 fast-food take-away units. There are also commercial units on the opposite side of the Somerville access road, to the north-east.
- 1.3. Access to the site is taken from the access to Riverwalk Court, which itself comprises a spur off of the Somerville access road.

2.0 Proposed Development

- 2.1. The application was lodged with the Planning Authority on 16th December 2020. Further information was submitted on 6th May 2021, following a request dated 16th February 2021. Revised public notices were also submitted on 26th May 2021.
- 2.2. The development entailed within the public notices comprised the construction of 18 No. sheltered housing units (2 No. 1-bed and 16 No. 2-bed units), open space areas, 18 No. car parking and 10 No. cycle parking spaces and associated development works. The proposed development also included a multi-modal entrance at Riverwalk Court, adjustments to site levels, boundary treatments and water services.
- 2.3. The proposed layout sees housing located parallel to the south and west site boundaries and south of the watercourse, with all housing addressing a central open space and communal parking area. Houses are single storey and are primarily terraced and each is provided with a rear garden. The proposed river walk would route

from the site access to an existing pedestrian bridge that is adjacent to the north-west corner of the site and which connects to the footpath within the Somerville estate.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission on 21st June 2021, subject to 35 No. planning conditions.

- Condition No. 3 required the applicant to enter into an agreement pursuant to S47 of the Act, to provide for restricted occupation of the units to persons aged 55 or older or persons with a certified medical need for sheltered housing and spouses or partners of such persons.
- Condition No. 4 required the applicant to enter into an agreement under the provisions of S96 of the Act, unless otherwise agreed with the Planning Authority or on foot of a Part V exemption certificate having been issued for the development.
- Condition No. 5 required the applicant to submit details of a management company that will be responsible for maintenance of public areas of the site, including demonstration of capacity to resource and finance activities.
- Condition No. 9(i) required a minimum internal road/aisle width of 6m, to facilitate proposed perpendicular parking.
- Condition No. 27 required the applicant to incorporate enabling works, to allow for the provision of broadband services to the development and to the individual units.
- Condition Nos. 31, 32 and 33 required the applicant to make financial contributions, under the provisions of the S48 development contribution scheme.
- Condition No. 35 required submission of a cash deposit of €84,000, as security for the satisfactory completion of the development and maintenance until taking-in-charge.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 16th February 2021 and 11th June 2021 have been provided.

3.2.2. The first report outlines that the majority of the site is zoned G1 – Community Infrastructure under the Ratoath local area plan 2009-2015, and that part of the site is zoned F1 – Open Space. The proposed development is stated to be acceptable in principle under both zonings, where sheltered housing is open for consideration under the G1 zoning and the part of the site zoned F1 is proposed to be landscaped and provided with a river walk. The proposed residential density is noted as being in excess of that recommended by the local area plan, but is considered acceptable in view of the site's location and context. The report states that condition No. 6 of previous permission Reg. Ref.01/673 on the site required omission of a proposed creche facility and the submission of a planning application for a creche on the subject site and notes that the current application does not propose to remove or amend this previously attached condition. Proposed building designs are stated to be acceptable and reflective of vernacular themes. Regarding layout, the report states that internal layout of each unit accords with the requirements of Quality Housing for Sustainable Communities (2007) and that private gardens and open spaces accord with the requirements of the county development plan 2013-2019. Car parking proposals are stated to be below the development plan minimum requirement, but are noted to have been deemed acceptable by the Transportation section. Regarding flood risk, the report states that the site falls partly within Flood Zone B but that hydraulic modelling of the site indicates that all residential units are within Flood Zone C. The Report includes an assessment of compliance with urban design criteria contained within the Urban Design Manual and concerns are expressed regarding the gated nature of the development, the level of surveillance of the proposed river walk, the location and extent of bin storage and landscaping proposals. Comments provided by other internal departments and consultees, which include requests for additional information, are also referenced. The report recommends that the following additional information be sought: -

- Applicant requested to clarify compliance with conditions attached to Reg. Ref. 01/673 and to submit a childcare assessment for Ratoath.
- Applicant requested to submit a site section indicating site levels.
- Applicant requested to give further consideration to the proposed layout, with reference to passive surveillance of public space along the Broadmeadow River.

- Applicant requested to submit revised surface water drainage proposals, including ground investigation results
- Applicant required to submit a proposed public lighting design.
- Applicant required to address submission by Irish Water, which identified a requirement to divert a watermain traversing the site and requested clarification over whether a wastewater pipe traversing the site would be on public or private land and which also requested the wastewater network design be revised, to accord with the IW Code of Practice.
- Applicant required to undertake a flood risk Justification Test and to clarify scope of culvert/crossing analysis undertaken within the site specific flood risk assessment.
- Applicant requested to amend the proposed layout, with reference to proposals for a gated development, provision of recycling facilities, landscaping proposals, bicycle storage facilities and bin storage facilities.
- Applicant requested to respond to issues raised within third party submissions.

3.2.3. The second report followed receipt of the AI response and followed the submission of revised public notices and a further period of public consultation. The report summarised and responded to the further information response items and stated that each issue had been satisfactorily addressed. The report recommended that permission be granted subject to 35 No. recommended conditions, which are consistent with the Planning Authority's decision to grant permission.

3.2.4. Other Technical Reports

Transportation reports dated 29th January 2021 and 11th June 2021 have been provided. The first report recommended that additional information be sought, in relation to (a) the proposed layout, with the applicant requested to facilitate enhanced frontage onto the Broadmeadow River and the Somerville access road, (b) the internal road layout, to ensure compliance with DMURS principles and to provide a minimum 6m wide road/aisle width, (c) it was also recommended that necessary repair work to the existing pedestrian bridge should be undertaken, to ensure it is accessible and safe to use. The second report outlined no objection, subject to a number of recommended conditions.

Emailed **Public Lighting** comments dated 15th January 2021 and 27th May 2021 have been provided. The first submission requested the submission of a public lighting plan. The second submission advised that public lighting proposals were acceptable, subject to no dimming below P4 class.

Emailed **Environment (Flooding)** comments dated 10th June 2021 have been provided. The comments advise of the flood context of the site and acknowledge that a development management justification test was required as part of the application and was requested as part of the further information request. The comments follow submission of the additional information response and express no objection to the development, subject to recommended condition.

Handwritten comments from **Housing** section, dated 19th January 2021, have been provided, which advise that the applicant intends to enter into a long-term lease agreement under Part V.

Water Services reports dated 22nd January 2021 and 26th May 2021 have been provided. The first report requested additional information in relation to surface water drainage proposals, including seeking specified revisions to the proposed drainage system and the results of ground investigations. The second report advised that surface water drainage proposals met with the Council's requirements and recommended attachment of a condition as part of a grant of permission.

3.3. **Prescribed Bodies**

- 3.3.1. Irish Water made submissions dated 26th January 2021 and 28th May 2021. The first submission requested further information in respect of watermain and wastewater pipes traversing the site and the identified wastewater network design gradient. The second submission outlined no objection and requested a number of conditions as part of a grant of permission.

3.4. **Third Party Observations**

- 3.4.1. A number of third party letters of observation were received, the issues raised within which can be summarised as follows: -
- Encroachment onto land owned by Somerville residents.

- Impact on access to the Somerville, Centrepont and Riverwalk estates.
- Proposed density.
- Adequacy of parking proposals.
- Existing bridge proposed for access was considered to be unsafe.
- Proposed house designs allow for attic conversions, which would lead to overlooking.
- Impact of construction on neighbouring estates.
- Risk of anti-social behaviour.
- Accuracy and adequacy of the application form, notices and architectural drawings.
- Structural concerns.
- Impact of tree removal.
- Operational management and maintenance.
- Legacy issues arising from previous development by the applicant.
- Impact on the Broadmeadow River.
- Flood risk.
- One observer acknowledged the need for sheltered housing in Ratoath, but considered the location to be unsuited.

3.4.2. 1 additional submission was received following the submission of revised public notices. No additional issues were raised within the submission.

4.0 Planning History

DA50315 - Permission granted on 8th November 2005 for a pedestrian / maintenance Bridge over Broadmeadow Stream to a previously approved residential development (Reg Ref No. DA30028).

DA30196 – Permission refused on 23rd October 2003 for construction of 18 no. two-storey terraced town houses with converted attics, with associated site-works, landscaping and carparking for 27 no. cars, vehicular access via new proposed roundabout on Fairyhouse Road, with temporary access via

the existing site entrance onto Fairyhouse Road. Permission was refused for 3 reasons, as follows: -

1. Having regard to the proposal to construct the proposed development on an area of public amenities permitted under parent permission P01/673, it is considered that the proposed development would represent the over development of the site and constitute a substandard form of development and would provide an unacceptable level of amenity for occupants of the entire development. Therefore, the proposed development would set an undesired precedent for future development of this type and be contrary to the proper planning and development of the area.
2. Having regard to the proposal to construct the proposed development on an area zoned F1 'to provide for and improve open spaces for active and passive recreational amenities' the construction of 18 No. dwellings is considered to materially contravene the Meath County Development Plan 2001, therefore the proposed development would be contrary to the proper planning and development of the area.
3. The proposal is contrary to the specific development objective RT 12 of the County Development Plan 2001 'to seek the development of the Broadmeadow River park through the co-ordination of development of adjoining lands and the putting in place of an appropriate community based maintenance arrangement. The proposed development would therefore establish an undesirable future precedent and would be contrary to the proper planning and development of the area.

01/673 - Permission granted for construction of 150 dwellings, vehicular access via new proposed roundabout on Fairyhouse Road with temporary access via existing site entrance, site development & landscape works including the provision of an approx. 4.24 hectare landscaped public park including the provision of two all weather tennis courts (c. 1370 sq.m.), a single storey scout den (c. 243 sq.m.), a single storey active age day centre (c. 54 sq.m.) with associated covered terrace area (c.27 sq.m.), a single storey child care creche (c.308 sq.m.), with provision for 20 car parking spaces to serve the

scout den, day centre & creche, an exercise track / fitness trail, childrens play area & ancillary amenity facilities. The following conditions are of relevance to the subject development: -

5. A 10 metre wide access strip shall be maintained adjacent to the Broadmeadow River. This strip shall be designed and maintained so as to accommodate mechanical plant access to the river.

6. The proposed creche shall not be permitted pursuant to this planning permission. Within one month of the commencement of development, a planning application for a revised creche of suitable design at the location indicated in the site layout drawing no. 409 PP 02, submitted to the Planning Authority on 21/01/02 shall have been lodged with the Planning Authority. The creche shall adhere to the requirements of the Child Care (Pre School Services) Regulations 1996 and the Environmental Health Standards for full time Pre School Services.

Permission was granted for revisions to the approved development under Reg. Ref. DA30028 on 3rd November 2003.

Relevant Nearby Planning History

RA200045 - *Riverwalk Court*: ABP Ref. ABP-307038-20. Permission granted on 29th September 2020 for erection of two internal boundary fences to the east and west of the resident's communal and private open space to the rear of Block 2.

RA/S52032 - *Section 5 referral at Riverwalk Court*: ABP Ref. ABP-307503-20 'Whether replacing ground floor rear elevation window with single patio door to provide access to designated open space of 10 no. 2 bed ground floor units is or is not development or is or is not exempted development'. The Board issued the following Order: -

(a) the replacement of ground floor rear elevation window with single patio door to provide access to the designated private open space of 10 number two bedroom ground floor units in Block numbers 2 and 3 constitutes development being works to permitted structures pursuant to section 3 of the Planning and Development Act, 2000, as amended, and

(b) the works would be exempt under Section 4(1)(h) of the Planning and Development Act, 2000, as amended, as the works are proposed to all of the ground floor apartments in the northern elevation of Block 2 and in the western elevation of Block 3, therefore being works that would not materially affect the external appearance of either Block 2 or Block 3 so as to render their appearance inconsistent with the character of the structures or of neighbouring structures.

01/851 – *Riverwalk Court development:* Permission granted on 24th May 2002 for demolition of bungalow & erection of 4 no. ground floor retail units of total area 362 sq.m., with 26 no. 2 & 3 bedroom apartments in 3 blocks, (2 storeys over retail units & 3 storeys over ground), & 3 storey office building of 227 sq.m., including site works, landscaping & car parking for 38 no. cars with vehicular access via new proposed roundabout on Fairyhouse Road, with temporary access via the existing site entrance onto Fairyhouse Road.

Permission was subsequently granted for retention of amendments and completion of the development approved under Reg. Ref. 01/851, under Reg. Ref. DA20413.

5.0 Policy Context

5.1. Ministerial Guidelines

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

5.1.1. The Guidelines set out key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas.

5.1.2. In relation to infill sites, Section 5.9 advises that such sites can range from small gap sites to unused or derelict land and backland areas, up to larger residual sites or assembled sites from multiple owners. For proposed developments on such lands, the Guidelines state: -

'In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the

need to provide residential infill...The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.'

Quality Housing for Sustainable Communities (2007)

- 5.1.3. The Guidelines identify principles and criteria that are important in the design of housing and highlight specific design features, requirements and standards.

5.2. National Planning Framework

- 5.2.1. The National Planning Framework provides an overarching policy and planning framework for the social, economic and cultural development of the country. The NPF sets out 75 no. National Policy Objectives including the following:

NPO 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

NPO11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 13: 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.

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

5.3. Midlands and Eastern Regional Spatial and Economic Strategy

- 5.3.1. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level.

5.4. Meath County Development Plan 2021-2027

- 5.4.1. The county development plan took effect on 3rd November 2021, replacing the Meath County Development Plan 2013-2019 as the operative development plan for the county.
- 5.4.2. The site is primarily zoned 'G1 – Community Infrastructure', with an objective '*To provide for necessary community, social, and educational facilities*'. A small section of the northern-most part of the site is zoned 'A1 – Existing Residential', with an objective '*To protect and enhance the amenity and character of existing residential communities*'. Sheltered housing is an open for consideration use under the Community Infrastructure zoning and is a permitted use under the Existing Residential zoning.
- 5.4.3. Ratoath is identified within the settlement hierarchy as a Self-Sustaining Town. Section 2.10.2 states that for Self-Sustaining Towns, the focus will be on attracting employment and investment in services alongside a limited population growth and a more balanced delivery of housing. The Core Strategy Table (Table 2.12) identifies an allocation of 803 houses to the town, for the period up to 2027.
- 5.4.4. Volume 2 contains written statements and maps for each of the settlements, including Ratoath. An intention is outlined, to prepare a new local area plan for the town, over the lifetime of the development plan. Section 8 of the written statement contains town development policies and objectives, which include the following of relevance to the appeal: -
- RA POL 1:** To ensure Ratoath develops in a consolidated and sustainable manner which facilitates and supports employment opportunities, accommodates local services and reinforces the existing town centre.
- RA OBJ 9:** To develop a system of linear parks and waterfront amenity areas with walkways and cycleways, subject to the availability of resources, along the banks of the River Broadmeadow.
- 5.4.5. Section 11.7 contains development standards and policies for sheltered accommodation. It states that the Council recognises that the provision of care for the elderly and other vulnerable people in our community is an essential requirement

particularly in the context of changing national demographics. The following policies and objectives are relevant: -

DM POL 24: To require that residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation/step down housing be located in towns and villages for reasons of sustainability, accessibility, social inclusion, and proximity to the availability of services, except where a demonstrated need to locate in a rural environment because of the nature of the care required can be clearly established

DM OBJ 66: Reduced open space standards may be acceptable for the following development types: residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation only in cases where it is clearly demonstrated with a supporting evidence base that it is appropriate by having regard to the specific open space needs of residents and only where suitable accessible public open space is available as part of the development.

DM OBJ 67: Planning applications for the change of use of a residential dwelling or other building to nursing home, residential care home, or for the construction of new residential care homes, retirement homes, nursing homes, retirement villages or sheltered accommodation/step down housing, shall be assessed for compliance with the following criteria:

- The Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) (Amendment) Regulations 2010 (or any such other relevant standards and legislation that may be enacted);
- The National Quality Standards for Residential Care Settings for Older People in Ireland, 2009;
- Sustainability is the location served by good public transport links, pedestrian and cycle facilities, close to local services and facilities;
- Suitability of the size and scale of the proposal having regard to the site constraints and the area in which it is located;
- The degree to which the residential amenity of surrounding properties is protected;
- The requirement for a high standard of design and external finishes;

- The adequacy of off-street car parking;
- High quality open space proposals with comprehensive landscaping plans prepared by a fully qualified landscape professional;
- Availability of services.

5.4.6. Chapter 11 also contains a range of other development management policies and standards, to guide and control residential development.

5.5. Natural Heritage Designations

5.5.1. The site is not located within or adjacent to any Natura 2000 sites, the closest such sites being the Rye Water Valley/Carton SAC (Site Code 001398), which is c.14.75km south-west.

5.6. EIA Screening

5.6.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.6.2. 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 district¹, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

5.6.3. The subject development is the construction of 18 sheltered housing units, together with associated works, on a site with a stated area of 0.51ha. The development falls well below the threshold of 500 dwelling units noted above and also the applicable site area threshold of 10 ha. The site is not in an area where the predominant land-use is retail or commercial, so the 2ha threshold is not applicable.

¹ A Business District is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'

5.6.4. The site is in an established residential area, which is characterised by a mix of traditional and contemporary housing and a mix of other commercial uses. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. 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.

5.6.5. 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 serviced, within the urban area of Ratoath,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
- The existing pattern of residential development in the vicinity,
- 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),

5.6.6. 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows: -

- Applicant's history of non-compliances
 - Section 35 of the Planning and Development Act, 2000, as amended sets out how local authorities should deal with developers that have a poor record of non-compliance with development and planning standards. The applicant's track record in the area fits within this category. A spreadsheet of non-compliance issues is provided. Issues include: -
 - The planning authority refunded the applicant the bond for the Riverwalk Court development without carrying out due process and common areas and private open spaces were left unfinished.
 - The subject site shares a common entrance with Riverwalk Court, which is owned by the applicant but which has not been properly surfaced.
 - Riverwalk Court residents are still addressing defects with apartments and common areas and there is an ongoing case against the applicant. Many residents had to vacate their apartments while remedial work was undertaken in 2016.
 - The site is an eyesore and is a reminder to residents of the amenities which have not been provided, which were to be provided under Reg. Ref. 01/673. The applicant has previously applied for housing on the site (Reg. Ref. RA190359) and was refused permission.
 - The site should be developed, but it should take the zoning context into account and should provide surrounding residents with the amenities set out in the original application for the landholding.
 - It is misleading of the applicant to state that they are not aware of any previous planning application on the site. A number of historic planning applications are referenced.

- Site notices posted on the site were either not in the location advertised or were in a location where they could only be seen by accessing the site. The incorrectly located notice was resited to its correct location on 26/1/2021, but the public consultation period was not extended.
- Site boundaries are not accurately depicted. The south of the site is unprotected and accessible to the public since the Somerville and Riverwalk Court developments were completed in c.2006.
- Block 3 within Riverwalk Court should be set away from the subject site by 3801mm, as shown on the architectural drawings from the Riverwalk Court development. A copy of a drawing is provided, for reference.
- Existing trees along the south site boundary are not adequately identified and no arborist report was provided with the application. They provide a threat to proposed houses in storm conditions and will overshadow proposed gardens.
- Proposed unit 1 will overshadow the private open spaces of unit Nos 1, 3 and 5 Riverwalk Court.
- Nos. 2, 4 and 6 Riverwalk Court will overlook private gardens for 6 of the proposed units.
- Trial holes for the site were carried out and backfilled on the same day. It is understood they should have been left open, for inspection the following day.
- Contextual elevations and levels are unclear and do not properly identify the impact of the development of Block 3, Riverwalk Court and the impact of that block on the proposed development.
- Riverwalk Court is under-provided with car parking and it is unworkable to require that there will be no on-street parking during construction. It should also be noted that Riverwalk Court is used daily by a Tesco delivery truck, to service the store, and access is required to be maintained.
- The structural slab joint over the bridge which accesses Riverwalk Court is in a distressed state and has been notified to Meath County Council. The Council states that it does not own the road section, despite having taken the Somerville estate in charge previously.

- The bin / bicycle store approved for Riverwalk Court has not been provided and the unenclosed store provided in its place is an eyesore.
- The Board is requested to refuse permission.

6.2. Applicant Response

6.2.1. A first party response to the appeal was submitted by KPMG Future Analytics, on behalf of the applicant, on 17th August 2021. The contents of the submission can be summarised as follows: -

- Planning issues associated with Somerville and Riverwalk Court.
 - The issues raised are outside the remit of the proposed development but the applicant has provided a number of clarifications: -
 - Somerville was developed by a party not connected to the applicant and has been taken in charge by Meath County Council.
 - Apartments within Riverwalk Court were sold individually and each buyer employed an adviser to check that planning matters were in order.
 - The bond of €112,900 was lodged as security for the satisfactory completion of services, open spaces, etc within the development (condition No. 28 of 01/851) and it was refunded by the Council when matters the subject of condition No. 28 had been completed to the Council's satisfaction.
 - No enforcement notice has been issued to the applicant in respect of the Riverwalk Court or Somerville developments.
 - Legal proceedings were instigated in 2012 by the owners of all apartments at Riverwalk Court, against multiple parties including the applicant, but were struck out in 2019, in respect of proceedings against the applicant
- Regarding site notice concerns, the site was inspected by the Planning Authority on 2nd February 2021 and the notices were deemed to be in order. Significant further information notices were also erected following instruction from the Planning Authority on 25th May 2021.

- Regarding historic applications at the site, the Board are referred to sections 2.1 and 2.2 of the further information response, which address the issue directly. The new development supersedes the previous application, Reg. Ref. 01/673.
- Regarding concerns over percolation testing, McCrae Consulting Engineers have replied to the appeal and state that the appellant is incorrect in their understanding that the test hole should have been left uncovered overnight. To do so is unsafe and unnecessary. The appellant may have confused a soakaway test with a percolation test, which does require a small pit to be left open overnight.
- Concerns regarding overshadowing are addressed by a shadow analysis provided by the project architect. The analysis indicates existing elements cast the majority of shadow, for both the spring and autumn equinoxes.
- Appropriate separation distances have been maintained to prevent potential overlooking. Boundary heights between the gardens of units 1-10 mean that from the height and angle available, there will be very limited chance to overlook.
- Trees to the south are adequately identified on the site layout drawings. They are outside the application site and the applicant's control. Adequate separation is incorporated, to allow for retention. The trees will not have a significant impact on daylight entering the proposed houses.
- Detailed sections and elevation drawings have been provided, which clearly show the contextual relationship to existing buildings. The development will not adversely affect the more dominant Riverwalk Court, with more than adequate separation distances maintained.

6.3. Planning Authority Response

6.3.1. A submission was received dated 9th August 2021, the contents of which can be summarised as follows: -

- All matters raised in the appeal were considered in the course of the Planning Authority's assessment of the application, as detailed in the Planning Officer's report.
- The proposed development is considered to be consistent with the policies and objectives of the county development plan 2013-2019.

- The Board is requested to uphold the decision to grant permission.

6.4. Observations

6.4.1. None received.

6.5. Further Responses

6.5.1. None received.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal, I consider the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Requirement to provide community facilities on the site;
- Proposed layout and residential amenity;
- Trees;
- Flood risk and drainage;
- Road safety, parking and access;
- Enactment of Section 35 of the Act, regarding past failures to comply;
- Other issues;
- Appropriate Assessment.

7.2. Principle of Development

- 7.2.1. There are two separate zonings applying to the site, with the majority zoned 'Community Infrastructure' and the northern-most part being zoned Existing Residential'. The proposed sheltered housing appears to be contained within the Community Infrastructure zoned extent, with the landscaped area and river walk contained within the Existing Residential zoned extent.
- 7.2.2. 'Sheltered housing' is identified as an open for consideration use under the Community Infrastructure zoning and is a permitted use under the Existing Residential zoning,

under the new 2021-2027 county development plan, which has taken effect since the submission of the appeal.

- 7.2.3. In view of the site's location, close to Ratoath town centre and a range of commercial services and within an immediate context of housing, at Riverwalk Court and Somerville, I consider the principle of development is acceptable. The development would also contribute to implementation of policies of the NPF, in particular NPO 11 which applies a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages.

7.3. Requirement to Provide Community Facilities on the Site

- 7.3.1. The appellant states that the development of the site should take into account the zoning context and that development should provide surrounding residents with the amenities set out in the original application for the lands, Reg. Ref. 01/673.
- 7.3.2. The issue of compliance with conditions attached to Reg. Ref. 01/673 was raised by the Planning Authority at the further information stage (item 1 of the RFI) and the applicant made a detailed submission as part of the further information response. The submission acknowledges that a scouts den, active age day centre, creche and children's play area were proposed as part of Reg. Ref. 01/673, at the location of the subject site, but were not delivered. The submission also states that the condition cannot be complied with, given the 5-year planning permission period has passed.
- 7.3.3. In respect of the individual non-provided elements, the applicant states: -
- Scouts den: this has been delivered at a different location within the town and the applicant made financial contributions to its design and construction. It is located in the Jamestown area, near Ratoath College and Ratoath rugby club/tennis club/athletics club.
 - Active age day centre / children's play area: alternative community benefits will be gained from the proposed development, with reference to the provision of housing for vulnerable members of the community and the provision of public open space (the river walk) that contributes to the delivery of the riverside amenity sought by the Ratoath Local Area Plan 2009-2015.
 - Creche: a Childcare Assessment was provided as part of the further information response, which indicates that there is capacity in available childcare facilities in

the town and that the development will not result in a shortage of services in the town.

- 7.3.4. In my opinion there are two separate aspects to the issue of non-provision of community facilities; the non-provision of facilities proposed and granted planning permission as part of Reg. Ref. 01/673 (scouts den, age day centre and children's play area) and the failure to submit a planning application for a revised creche, as was required by condition No. 6 of Reg. Ref. 01/673.
- 7.3.5. Regarding the non-provision of the elements for which permission was granted, I note firstly, as the applicant states, that there is a scouts den in the area of Ratoath College, to the south of the town. In respect of the age day centre and children's play area, I am inclined to agree with the applicant that the proposed development provides enhanced community benefits over these previously permitted facilities, providing housing for vulnerable members of the community and providing active recreational space alongside the riverbank (this was an objective of the Ratoath Local Area Plan 2009-2015, SOC OBJ 12). I also note the applicant's statement that the lifetime of Reg. Ref. 01/673 is long expired at this point.
- 7.3.6. Regarding the failure to submit a planning application for a revised creche, condition No. 6 cannot technically be complied with given it required submission of an application within 1 month of the commencement of development (the Somerville estate is complete for a number of years at this point and has been taken in charge by the County Council). In any case, I consider the condition does not accord with advice provided by the Development Management Guidelines (2007) and is unenforceable. I see no mechanism by which the applicant can now be obligated to provide a creche on the site and, in light of this, I consider it would be unjustifiable to refuse permission for the proposed development on the basis of the requirements of condition No. 6. I consider the development of the site falls to be considered under the zoning context and the policies and objectives of the county development plan.
- 7.3.7. In conclusion, I do not object to the proposed development being provided on the site in lieu of community facilities proposed and granted planning permission as part of Reg. Ref. 01/673 and I consider it would be unjustifiable to refuse permission on the basis of non-compliance with the requirements of condition No. 6 of Reg. Ref. 01/673.

7.4. Proposed Layout and Residential Amenity

- 7.4.1. The proposed layout sees housing located parallel to the south and west site boundaries and south of the watercourse, with all housing addressing a central open space and communal parking area. The proposed river walk routes from the point of the site access to an existing pedestrian bridge that is adjacent to the north-west corner of the site and which connects to the footpath within the Somerville estate.
- 7.4.2. The proposed layout sees the rear of units 13-18 addressing the public open space running alongside the river. At the further information stage the Planning Authority requested the applicant to give further consideration to the layout in this area, in order to increase the level of passive surveillance of this public open space, and the applicant clarified in their response that passive surveillance is facilitated by a number of methods, including incorporation of different north-facing rooms in each of units 13-18 and the provision of low (1.2m high) boundary treatments along the north boundary.
- 7.4.3. The proposed layout incorporates windows from either the kitchen or living area and bedroom for each of units 13-18, which overlook this public open space area. And whilst the incorporation of reduced height boundary treatments for these units will reduce the level of privacy within the rear gardens, I consider this is acceptable, on balance. Should the Board decide to grant permission, I recommend a condition be attached requiring that boundary treatments to the rear (north) of units 13-18 shall have a maximum height of 1.2m.
- 7.4.4. Regarding the size and internal layout of the proposed houses, a schedule of accommodation was provided as part of the architectural design statement submitted with the application. The development plan does not specify a standard in respect of internal layout and I have therefore given consideration to the target recommendations contained within *Quality Housing for Sustainable Communities* (2007). Each of the proposed houses achieves or exceeds the target recommendations contained in Section 5.3.2 and Table 5.1 of these guidelines.
- 7.4.5. Garden areas for 15 of the plots fall below the minimum requirements of the development plan, Table 11.1 of which specifies that 1 and 2-bed houses should have a minimum private open space provision of 55sqm. However, objective DM OBJ 66 states that reduced open space standards may be acceptable for sheltered accommodation, where it is demonstrated that it is appropriate to the specific needs

of residents and where accessible public open space is available as part of the development.

- 7.4.6. The architectural design statement states that garden areas are of a size that can be used and maintained by residents. A large public open space quantum is incorporated, equating to 40% (1,997sqm) of the overall site area. It is comprised of 2 large spaces, adjacent to the river and in the centre of the site, and a smaller space, adjacent to the site access. The smaller space is unlikely to provide a high level of usability, given its location and layout, but the larger spaces are likely to provide a high level of usability, in particular the central open space area which will act as focal point for residents, provided it is appropriately hard and soft landscaped. In view of the quantum of open space incorporated and the high level of usability likely to be provided by the central area of open space in particular, I consider the requirements of objective DM OBJ 66 have been satisfied and the reduced open space standards provided are therefore acceptable.
- 7.4.7. Regarding the proposed open space, the river walk area is proposed to connect to a pedestrian bridge that is adjacent to the north-west corner of the site. The bridge was in a weathered state at the time of site visit. I note from the AI response submission that the applicant states it has been taken in charge by the Council and that funding has been identified for improvement works.
- 7.4.8. Regarding impacts on neighbouring residential property at Riverwalk Court, proposed house No. 1 sits in close proximity to the adjoining apartment block. Site section drawing No. P107 Rev P02 identifies house No. 1 as having a finished floor level identical to that of the adjacent apartment block ground floor and it would be sited 4.85m to its west. A shadow analysis was provided as part of the first party appeal response, which includes modelled images of shadows cast by the proposed development and it indicates that, in the 20th March/22nd September scenarios, a shadow is cast onto the apartment building by house No. 1 from 1pm onwards and the extent of shadow increases as the afternoon progresses. No assessment of compliance with the recommendations of *Site Layout Planning for Daylight and Sunlight* (BRE, 2011), which is referenced by Section 11.5.6 of the development plan, has been provided, so I have not been able to confirm ongoing compliance for the affected apartment units with this guidance.

- 7.4.9. Notwithstanding, I have concerns regarding the likely level of overshadowing of the affected ground floor apartment units, in view of the close proximity of the proposed house and its 7.74m height. The proposed house is, in my opinion, likely to be an imposing feature in west-facing views from the affected apartments and is likely to affect sunlight penetration through to units, as can be seen from the shadow images provided. The issue of overbearance also arises, given the close proximity and proposed height of the house.
- 7.4.10. I also noted on my visit to the site that ground floor units within the block do not have direct access to their rear private open space (window openings were provided to each unit instead of doors), so the impacts of overshadowing and overbearance are likely to be magnified for the affected units.
- 7.4.11. In view of this, I would recommend that the Board, should they decide to grant permission, should require the omission of proposed house No. 1, in order to protect the residential amenity of ground floor occupiers within Riverwalk Court Block 3. The Board may wish to give further consideration to the issue of overshadowing and seek clarification on compliance with the BRE guidance.
- 7.4.12. The rear gardens of house Nos. 1-6 are likely to be partially visible from some of the upper floor west-facing apartments within Riverwalk Court but I do not consider such overlooking would be detrimental to the enjoyment of the properties by future occupiers. Such overlooking is likely to be angled, given the layout of the development and its relationship to the adjacent apartment block. Also, I consider a balance needs to be achieved between making efficient use of the site and providing a high quality living environment for future occupiers and, in my view, omission of the units that would be partially overlooked would reduce the overall density of development by an unacceptable degree. On balance, I consider the relationship of the affected units to the adjacent apartment block is acceptable.

7.5. Trees

- 7.5.1. There are a number of trees adjacent to the south site boundary, which, although within the site physically, are stated by the applicant to be outside of the application site and outside of their ownership.
- 7.5.2. The appellant expresses concern that these trees pose a threat to proposed houses 1-10 in storm conditions and will overshadow the rear garden of each plot.

- 7.5.3. The site layout drawing identifies that the trees are to be retained, outside of the site, but I noted on my site visit that the canopy of a number of these trees varies from the indicative sizes shown on the site layout drawing and a number of the tree canopies are likely to overhang the proposed rear gardens. Given they are south of the proposed houses, they are likely to cast some shadow onto the house and garden, in Summer, but I do not consider such shadow to be unacceptable. The dappled shadow cast by a tree is different to that cast by a building and the BRE guidance (Section 3.3.9) expresses the view that it is 'more pleasant' than the deep shadow of a building.
- 7.5.4. I further noted on my inspection that the southern-most part of the site, where these trees are located, is elevated above the main part of the site. And whilst it is not shown on the drawings, part of the rear garden for a number of these plots also appears to be on this rising ground. The applicant states that adequate separation has been incorporated, to allow for retention of the trees but, no arboricultural assessment or drawings were submitted with the application, to analyse the likely or potential impact of the development on these trees. Groundworks may potentially impact on tree roots in this area.
- 7.5.5. I do not consider the trees in question to be particularly high quality and were they within the subject site, I would not object to their removal as part of the development. However, as they have been confirmed to be outside the site and outside the applicant's ownership, the Board may to give further consideration to the impact of the development, as a new issue.

7.6. Flood Risk and Drainage

Flood Risk

- 7.6.1. Available CFRAMS mapping² indicates that the northern-most and north-west corner of the site fall within Flood Zone B. The flood zone closely follows the route of the river but includes a section of the site, at its north-west corner.
- 7.6.2. A site specific flood risk assessment was submitted with the application and a further technical report was submitted at the further information stage, including a Justification Test, following a request from the Planning Authority's Environment (flooding)

² <https://www.floodinfo.ie/map/floodmaps/>

department. The FRA states that hydraulic modelling of the site indicates the flood extents are similar to those identified by the CFRAM maps and Figure 4.2 illustrates the flood extent in the modelled scenario, identifying that proposed housing is located in Flood Zone C, where the probability of flooding is low. All proposed housing incorporates finished floor levels a minimum 100mm above the peak flow in the 0.1% AEP event. The SFRA concludes that the proposed development accords with the core principles of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009).

- 7.6.3. Attenuated discharge of surface water run-off from the development to the Broadmeadow River (discussed under Surface Water Drainage below) will ensure that no additional loading will be placed on this drain by the development, protecting downstream property from flood risk.
- 7.6.4. In view of the above considerations, I consider the development is not at risk of flooding and will not increase flood risk elsewhere in the surrounding area. I note that the Planning Authority's Environment department did not object to the development on the grounds of flood risk, subject to attachment of a condition requiring manholes and chambers within the flood zones to be sealed.

Foul Water Drainage

- 7.6.5. Foul drainage is proposed to drain to the public network via connection to the network line adjacent to the Broadmeadow River. The applicant states that a pre-connection enquiry was made to Irish Water and has provided correspondence which confirms a connection is feasible.
- 7.6.6. I note that Irish Water did not express any objection to the development.

Surface Water Drainage

- 7.6.7. Surface water is proposed to drain via attenuated discharge to the Broadmeadow River, with an attenuation tank located under the central open space area. The design of the drainage and attenuation is informed by a BRE365 soakaway test, which was provided following a request at the further information stage. The Planning Authority's Water Services confirmed that the proposed surface water system accords with its requirements.

7.7. Road Safety, Parking and Access

- 7.7.1. Access to the site is proposed from the existing access to the Riverwalk Court development, which is itself comprised of a spur from the Somerville estate road.
- 7.7.2. The appellant has questioned the condition of the Riverwalk Court access, which includes a bridge over the River Broadmeadow. This issue was not commented on by the Planning Authority's Transportation department. On my site visit I observed that the bridge was unfinished (i.e. no wearing course had been applied) but did not observe any other noticeable defects.
- 7.7.3. Details of the junction layout for the proposed access are not set out on the proposed site layout drawing. Notwithstanding, the development is small scale in nature and I am satisfied that there is adequate forward visibility in the area of the proposed access point, to ensure that no traffic or road safety issues arise.
- 7.7.4. There is a short carriageway section within the site, leading to the communal parking area. Parking spaces are laid out in a perpendicular fashion and there are 18 spaces provided in total. The circulation area between perpendicular spaces is stated to measure 5m wide, which is below the recommended 6m width which the Design Manual for Urban Streets (DMURS) advises is required. Compliance with this DMURS advice will require reconsideration of the parking and landscaping layout, but I am satisfied that compliance can be achieved.
- 7.7.5. Parking spaces are provided at a rate of 1 per unit and includes 3 disabled spaces. This is below the level of 2 spaces per unit specified by the development plan (Section 11.9.1) but I consider the provision is acceptable and is in accordance with wider planning policies which seek to promote more sustainable forms of travel, as an alternative to the private car. The site is within reasonable walking distance of the town centre and is in close proximity to services.
- 7.7.6. Should the Board decide to grant permission, I would recommend a condition be attached requiring the layout of the proposed access and internal carriageway and perpendicular parking bays be agreed with the Planning Authority prior to commencement of development, to include DMURS place-making principles.
- 7.8. **Application of Section 35 of the Act in respect of past failures to comply**
- 7.8.1. The appellant references instances of alleged non-compliance by the applicant and cites the provisions of Section 35 of the Act, which provides grounds on which to

withhold a grant of permission for reasons that include past failures to comply with planning conditions or on the basis of substantial unauthorised development having carried out.

7.8.2. The applicant has responded to the appellant's submission and states that no enforcement notice was issued against him, in respect of the Somerville or Riverwalk Court developments.

7.8.3. I have given consideration to the appellant's submissions, in the context of the provisions of Section 35 of the Act, but I do not consider they justify a refusal of permission under the Section, which requires that there must be '*a real and substantial risk that the development...would not be completed in accordance with such permission if granted...*'. I am cognisant of the applicant's assertion that no enforcement notice was issued against him in respect of the Somerville or Riverwalk Court developments and this position has not been undermined. Furthermore, I note that the Planning Authority's reports on the application do not identify any enforcement history pertaining to the lands.

7.9. Other Issues

7.9.1. The appellant expresses concern regarding the adequacy of the site notices posted on the site, questioning the appropriateness of the locations chosen. Whilst I note the concern, this is a matter for the Planning Authority, as the body responsible for validation and assessment of site notices. Site notices are not required to be maintained in place at the time of appeal.

7.9.2. Concerns expressed by the appellant regarding the location or design of a bin / bicycle store provided within Riverwalk Court are not a matter for the Board, in its consideration of this appeal. Planning enforcement and unauthorised development complaints relating to the adjacent site are a matter for the Planning Authority.

7.9.3. The appellant states that Riverwalk Court Block 3 should be set away from the subject site by 3801mm and refers to a planning drawing which depicts this level of separation. Having considered the referenced drawing, I am satisfied that the proposed development does not encroach onto land which is utilised as part of the Riverwalk Court complex. I have assessed elsewhere in my report the impact of the proposed development on the residential amenity of occupiers within Riverwalk Court Block 3.

7.10. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.10.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.10.2. The applicant submitted an *Appropriate Assessment Screening* report, prepared by Altamar Marine & Environmental Consultancy. It provides a description of the proposed development, identifies European sites within a potential zone of influence and identifies potential impacts in relation to the Rye Water Valley / Carton SAC (Site Code 001398), Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA (Site Code 004025)
- 7.10.3. Having reviewed the appeal documents provided and submissions, I am satisfied that there is adequate information in relation to the European sites to allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 Appropriate Assessment Screening

- 7.10.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives.
- 7.10.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

Brief Description of the Development

- 7.10.6. The Screening report provides a description of the proposed development and the development is also summarised at Section 2 of this Report. In summary, permission is sought for the construction of 18 No. sheltered housing units (2 No. 1-bed and 16 No. 2-bed units), open space areas, 18 No. car parking and 10 No. cycle parking

spaces and associated development works. The site has a stated area of 0.51ha and is a previously disturbed nature, having been used as a construction compound as part of the development of adjacent lands. The site is served by the public potable and foul water networks. Foul water is proposed to drain to the public network, via connection to the network line adjacent to the Broadmeadow River. Surface water is proposed to drain via attenuated discharge to the Broadmeadow River. The Broadmeadow River is identified by the Screening report as discharging to Malahide Estuary.

7.10.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following potential impact mechanisms require examination:

Construction phase

- The impact of potential surface water discharges from the site on water quality within a European site.

Operational Phase

- The impact of surface water discharges from the development on water quality within a European site.

Submissions and Observations

7.10.8. The submissions from the appellant, applicant and the Planning Authority are summarised as Section 6 of this Report.

European Sites

7.10.9. The development site is not located in or immediately adjacent to a European site. The closest European site is the Rye Water Valley/Carton SAC, which is c.14.75km south-west. The Screening report states that the SAC is in a different river catchment, with no hydrological connection to the site. Malahide Estuary SAC and SPA are c.17.5km and 18km east, respectively, and are connected to the site via the Broadmeadow River.

7.10.10. A summary of European Sites identified by the Screening report as being potentially affected by the proposed development is presented in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
<u>SAC</u>				
Malahide Estuary SAC (Site Code 000205)	Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Shifting dunes along the shoreline with Ammophila arenaria, Fixed coastal dunes with herbaceous vegetation .	c.17.5km	Y	Y
<u>SPA</u>				
Malahide Estuary SPA (Site Code 004025)	Great Crested Grebe, Light-bellied Brent Goose, Shelduck, Pintail, Goldeneye, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Redshank, Wetland and Waterbirds	c.18km	Y	Y

7.10.11. In respect of Screening, the report concludes that: -

‘No Natura 2000 sites are within the zone of influence of this development. Having taken into consideration the effluent discharge from the proposed development works, the significant distance between the proposed development site to designated conservation sites (min 17.3km), and the dilution effect with other effluent and surface run-off, it is concluded that this development would not give rise to any significant

effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of features of interest of Natura 2000 sites.'

Construction phase impacts

7.10.12. Regarding potential impacts on water quality within Malahide Estuary SAC and SPA, arising from potential surface water discharges, the Screening report states that no in-stream works are proposed and that a 10m buffer is maintained between the development and the watercourse. It identifies that sediment or pollutants could be discharged from the site but that, in such circumstances, there is a significant distance to the European sites and settlement/mixing/dilution would occur over this significant distance. The Screening states that in view of the smallscale nature of the development, the absence of in-stream works and the 10m buffer, such discharges would not be of a level to cause impacts on the conservation objectives of either European site.

7.10.13. Given there are no in-stream works proposed and a 10m buffer is maintained from the main part of the construction site, I consider the likelihood of a surface water discharge from the site entering this stream is low. In the unlikely event of a discharge, it would still be a considerable distance from the European sites Malahide Estuary and it is very unlikely that any pollutants would be transferred to the European sites, which are over 17km away. Indeed, in the event that a discharge from the site was transferred to the European site, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that there is no potential for likely significant effects on these European sites.

Operational phase impacts

7.10.14. Regarding potential impacts on water quality within Malahide Estuary SAC and SPA, arising from potential surface water discharges, the Screening report states that no in-stream works are proposed and that a 10m buffer is maintained between the development and the watercourse. It identifies that sediment or pollutants could be discharged from the site but that, in such circumstances, there is a significant distance to the European sites and settlement/mixing/dilution would occur over this significant distance. The Screening states that in view of the smallscale nature of the development, the absence of in-stream works and the 10m buffer, such discharges

would not be of a level to cause impacts on the conservation objectives of either European site.

7.10.15. Attenuated surface water is proposed to discharge to the Broadmeadow River, which I have already stated connects the site to Malahide Estuary and the SAC and SPA. The risk of pollutants being transferred via attenuated discharge is low and even in the event that a discharge from the site entered the watercourse, it would still be a considerable distance from the European sites at Malahide Estuary and it is very unlikely that any pollutants would be transferred to the European sites. Indeed, in the event that a discharge from the site was transferred to the European site, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that there is no potential for likely significant effects on European sites.

Screening Determination

7.10.16. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 000205 and 004025, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.10.17. This determination is based on the following:

- The smallscale nature of the development, which does not require specialist construction methods, the maintenance of a 10m buffer between the main part of the construction site and the adjacent watercourse and the level of separation between the subject site and the European sites.

8.0 Recommendation

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the 'Community Infrastructure' and 'Existing Residential' zonings that apply to the site under the Meath County Development Plan 2021-2027, under which sheltered housing is an 'open for consideration' or 'permitted' use, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would represent an appropriate form of development and which would not seriously injure the amenities of the area or the amenities of residential property in the vicinity and would not result in a traffic hazard. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the submission of further information on 6th May 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Proposed house No. 1 shall be omitted from the development and the resultant space shall be provided and maintained as open space.</p> <p>Reason: In the interest of the protection of the residential amenity of adjacent residential occupiers.</p>
3.	<p>Prior to the commencement of development the developer shall enter into an agreement with the Planning Authority under Section 47 of the Planning and Development Act, 2000, as amended, to restrict the proposed development to occupation as sheltered housing.</p>

	<p>Reason: To ensure the proposed development is occupied as specified in the public notices, in the interests of the proper planning and sustainable development of the area.</p>
4.	<p>Boundary treatments, which shall incorporate boundaries of maximum height 1.2m to the rear (north) of house Nos. 13-18 shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
5.	<p>The vehicular access to the site, internal carriageway and parking area shall comply with the Planning Authority's requirements and shall incorporate <i>Design Manual for Streets</i> place-making principles, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
6.	<p>Details of proposed landscaping shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity and to protect residential amenity</p>
7.	<p>Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.</p> <p>Reason: In the interest of public health and orderly development.</p>
9.	<p>Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p>

	Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.
10.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
11.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended construction practice, noise/dust management measures, parking proposals for construction workers on the site and storage and management of materials and waste within the site.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>Refuelling shall take place in a designated area at least 30m from the adjacent watercourse, details of which shall be contained within the Construction Management Plan.</p> <p>Reason: In the interest of protecting the environment.</p>
13.	<p>Proposals for the management and maintenance of public open spaces, roads, footpaths, communal areas and public lighting within the site shall be agreed with the Planning Authority prior to occupation of the development.</p> <p>Reason: To ensure the development is adequately maintained in the interest of residential amenity.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
15.	<p>Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house / unit within the relevant phase of the development.</p> <p>Reason: In the interests of amenity and public safety.</p>
16.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended unless an exemption certificate shall have been applied for and been granted under section 97 of the Act.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
17.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>

Barry O'Donnell
Planning Inspector

14th January 2022.