



An
Bord
Pleanála

Inspector's Report

ABP-317130-23

Development	Public realm improvements for a pedestrianised New Street
Location	Malahide, County Dublin
Local Authority	Fingal County Council
Type of Application	Environmental Impact Assessment (EIA) Screening Determination (Application under Article 120 (3) (b) of the Planning and Development Regulations 2001, as amended)
Applicant(s)	1 Malahide Old Village Residents Association 2 Noel Mahon 3 Claire Jepson
Date of Site Inspection	2nd August 2023
Inspector	Tomás Bradley

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1.0 Introduction

Under the provisions of Article 120 (3) (b) of the Planning and Development Regulations 2001, as amended (PDR) applications for an Environmental Impact Assessment (EIA) Screening Determination were made to An Bord Pleanála (the Board) as to whether the development of public realm improvements for a pedestrianised New Street by Fingal County Council (FCC) at Malahide, Co. Dublin would be likely to have significant effects on the environment.

The proposed development is a local authority development and is being applied for under Part XI of the Planning and Development Act 2000, as amended (PDA), and Part XIII of the PDR. It is not a direct planning application to the Board.

A total of three parties made applications under the provisions of Article 120 (3) (b) requesting the Board to make an EIA Screening Determination. A concurrent and separate application for an Appropriate Assessment (AA) Screening Determination is being considered under ABP-317131-23.

FCC is of the opinion that the proposed development would not likely have significant effects on the environment and an EIA is not required. This is evidenced in an EIA Screening Report submitted to the Board. The applicants question this conclusion and contend the proposed development would likely have significant effects on the environment.

2.0 Site Location and Description

The site is located at New Street, Malahide, Co Dublin. It is in the centre of the town between Main Street (to the south) and Strand Street (to the north). The street slopes from south to north and is approximately 140-150 m in length. The site also incorporates a small portion of Ross Cottages which is a vehicular cul-de-sac on the southern end of New Street which serves residential dwellings and car parking.

There are a mix of uses including commercial, community and residential. There are several premises offering food and beverages as well as retail stores and office based uses.

In the past, the street was two-way for vehicular traffic with car parking and a footpath on both sides of the street. The site is currently closed to vehicular traffic except deliveries at certain hours. There is street furniture including seating and

planter boxes occupying the former areas of car parking. The main carriageway and footpaths of past vehicular arrangements are still legible.

The majority of buildings on either side of the street date from the 19th century and are generally two-story, many with shop fronts on the ground floor. The street is part of a wider architectural area made up of four streets meeting at a diamond at the south end of New Street. There are trees located at certain junctures on the street along with street lighting and other utilities.

The site is in close proximity to the coast and the natural resources and designations of the Malahide Estuary. The designated sites relate primarily to the marine and estuarine areas, largely aligning with the coastline.

3.0 Proposed Development

The proposed development includes:

- i. Widening of footpaths and provision of new kerb edges with existing kerbstones retained, realigned and protected within the widened footpaths and public spaces.
- ii. Realignment and narrowing of the trafficable section of New Street (c.150m in length, 0.22ha) and insertion of control measures and all necessary signage to provide for a pedestrianised street with associated traffic flow routes and restrictions allowing for time limited one-way access from 7am to 11am each day for deliveries and emergency vehicles from Main Street/ The Mall to New Street and a two-way access from Strand Street to Ross's Terrace via New Street.
- iii. Upgrade of all street surfaces.
- iv. Provision of 2no. loading bays at the southern and northern ends of New Street and an accessible parking space in front of the HSE building.
- v. Installation of cycle stands at 6no. locations on New Street with capacity for 23no. cycle parking spaces.
- vi. Removal and replacement of 11no. existing trees with 37no. trees of species appropriate to the location and environment and provision of soft landscaping and green infrastructure with planting zones for seeded, planted and hedging areas and associated bioretention and tree pit areas.

- vii. Provision of outdoor dining zones including tables and chairs and other ancillary moveable structures.
- viii. Provision of street furniture including seating, benches and litter and recycling bins and a water feature.
- ix. New public lighting.
- x. Upgrade of the watermain and foul drainage networks and upgrade and relocation of the surface water drainage network including provision of sustainable urban drainage systems (SUDs) features as part of hard and soft landscaping.
- xi. Provision of ducting for existing and future utilities and piped infrastructure.
- xii. All associated site and development works. Fingal County Council will be providing regulatory traffic signs (including regulatory signs which give effect to a pedestrianisation of New Street) in accordance with Section 95 of the Road Traffic Act 1961 (as amended).

These details of the proposed development are set out in the Part XIII Public Notice.

3.1. Documents supporting the Proposed Development

The following documents were submitted by FCC following the application under Article 120 (3) (b):

- Cover Letter dated 5th of July 2023
- Report dated 4th of July 2023, including information:
 - responding to the An Bord Pleanála request for submission,
 - information responding to the applicant's submissions,
 - on the zoning and relevant policies and objectives
- EIA Screening Report dated February 2023 (including appendices)
- EIA Screening Determination
- Planning Report
- AA Screening Determination
- Plans and Particulars including Drawings.

4.0 Planning History

A review of the FCC Planning Portal and the Board's case files was carried out on the 11th of August 2023 to collate any planning history for the site. There was no

recent planning history for the subject site, save for the planning application the subject of this EIA Screening Determination. Relevant planning history for adjoining sites are set out below.

Town Centre Planning Applications

There are numerous planning applications to the buildings and structures on each side of the street and on surrounding streets which is to be expected in a such an urban location. The planning applications largely relate to changes of use and alterations to the buildings and structures. These are noted and considered in the assessment below.

Public Realm Developments

There a several other proposed and existing development that relate to the public realm in the Malahide area being progressed by the local authority. The Malahide Public Realm Strategy is also considered. These include:

- Broadmeadow Greenway
- Sutton to Malahide Pedestrian and Cycle Scheme
- Malahide Green
- Bridgefield Car Park
- Parklets on Old Street, Church Street and Main Street
- General Traffic Diversions
- Furniture Licences

These are all noted and considered in the assessment below.

5.0 Policy Context

5.1. Zoning Objective

The Fingal County Development Plan 2023-2029 (FCDP) is the relevant plan for the subject site. The site itself has no specific zoning given it relates primarily to the street. The lands surrounding the street are zoned 'TC – Town and District Centre'. The general objective for such areas is "*protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*" This is marked on Sheet 9 that accompany the plan.

5.2. Architectural Conservation Area (ACA)

The site is located in an ACA. It is Policy HCAP14 of the plan to

“Protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries, or features, which contribute positively to the ACA.”

5.3. Specific Policies in respect of New Street, Malahide

The plan identifies Malahide as a Self-Sustaining Town which benefits from a high quality built and natural environment. There is a specific objective for New Street, Malahide and a pedestrianised core set out in Objective CSO63, which states:

“Continue to promote and facilitate the recently implemented pedestrianised core of New Street, Malahide.”

5.4. Other Relevant Policies

There are numerous related policies in respect of self-sustaining towns, sustainable placemaking, clean air and noise reduction, connectivity and movement and heritage. There are also development standards for public realm works in ACAs which is noted.

5.5. Specific Policies in respect of Natural Heritage

Chapter 9 of the plan includes several policies to protect, conserve, and enhance the county’s biodiversity and ecological connectivity having regard to national and EU legislation and strategies. These are noted.

6.0 Legal Context

Annex I to Directive 2011/92/EU as amended by Directive 2014/52/EU requires as mandatory the preparation of an EIA for all projects listed therein. Projects listed in Annex II to the Directive are not automatically subjected to EIA. Member States can decide to subject them to an assessment on a case-by-case basis or according to

thresholds and/or criteria (for example size, location, sensitive ecological areas and potential impact).

The European Union (Planning and Development) (EIA) Regulations 2018 (S.I. No. 296/2018) amended the PDA and the PDR in order to transpose into Irish Law the provisions of Directive 2014/52/EU.

In Ireland, Schedule 5 (Part 1 and Part 2) of the PDR, transposes Annex I and Annex II of the amended EIA Directive. Schedule 7 sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environment, under three headings: characteristics of the proposed development; location of the proposed development; types and characteristics of potential impacts.

In addition, Section 50 (1) (a) of the Roads Act, lists forms of road development in respect of which there is a mandatory requirement to carry out EIA. It is stated under Section 50 (1) (b) that if An Bord Pleanála considers that any road development proposed consisting of the construction of a proposed public road or the improvement of an existing public road would be likely to have significant effects on the environment it shall direct that the development be subject to an environmental impact assessment.

Screening is the term used to describe the process for determining whether a proposed development requires an EIA by reference to mandatory classes of development and legislative threshold requirements or by reference to the type and scale of the proposed development and the significance or the environmental sensitivity of the receiving baseline environment set out in Schedule 7.

In this instance, applications have been made under Article 120 (3) (b) of the PDR where it states that any person at any time before the expiration of 4 weeks beginning on the date of publication of the notice may apply to the Board for a screening determination as to whether a development proposed to be carried out by a local authority under Part XIII would be likely to have significant effects on the environment.

7.0 Request for Determination

A total of three parties made applications under the provisions of Article 120 (3) (b) requesting the Board make an EIA Screening determination. These submissions are summarised below:

7.1. Application of Malahide Old Village Residents Association

- The applicant considers that Schedule 5, Part 2, Class 10 (vi) of the PDR applies and should be considered 'sub-threshold' under the relevant assessment.
- It also notes Section (1) (b) to (d) of SI 279/2019 applies. Any road improvement projects which would likely have significant effects on the environment should be subject to EIA.
- The site adjoins and is directly linked to an ecologically protected site.
- The diversion of traffic over a wide area conceived by the Malahide Public Realm Strategy has not been adequately assessed. There are potential environmental and ecological effects as well as cumulative effects. Table 1 of the submission sets out several proposed and existing developments which need to be considered in this context. Several topics are considered in this respect including local population, traffic, noise, ecology, and cultural heritage.
- The applicant submits their own EIA Screening Assessment which follows the Schedule 7 Criteria which considers, at a high level, Characteristics of proposed development; Location of proposed development; types and characteristics of potential impacts.
- The AA Screening Report is invalid as it fails to consider the Zone of Impact as a result of increased traffic volumes on roads adjacent to the Special Area of Conservation (SAC) and associated impacts. There is an example of oil spillage occurring provided which resulted in flushing of pollutants into the estuary. It also fails to consider the in combination effect of a list of other public realm projects. The AA Screening relies on demonstrably ineffective mitigation including questions on drainage design.
- Several attachments are submitted including:
 - Development in Context of Malahide ACA and Planned town.
 - Zone of Impacts.

- Evidence of pathway between proposed development.
- Evidence of Pollution Events caused by re-directed traffic.
- Evidence of exposure of residential area to increased traffic.
- Evidence of Anti-social behaviour.
- Evidence of efforts of local residential population and employers to stop the adverse effects of the whole of the proposed development.
- Evidence that the proposed project is part of a wider scale change.
- Evidence that the proposed project and zone of impact are located adjoining, adjacent and directly connected to European Sites
- Evidence that the proposed project and zone of impact are located within a zone that experiences significant pluvial flooding that overwhelms existing surface water interception systems.
- Evidence that the proposed project and zone of impact have significant effects on the efficiency and safety of a number of key transport and access routes.
- Evidence about the exposure of children to alcohol advertising as well as public alcohol consumption.
- Evidence about the other Malahide Public Realm Projects in the area
- Evidence of Prior notification to FCC about Project splitting to avoid EIA.

7.2. Application of Claire Jepson

- The proposed development is a sub-threshold development as defined by Article 92 of the PDR and is likely to have significant effects on the environment.
- The applicant considers that Schedule 5, Part 2, Class 10 (vi) of the PDR applies for the proposed development.
- The proposed development is located in a 'business district.'
- The proposed development is documented in the FCDP to be an integral part of the Malahide Public Realm Scheme which has an area of at least 2.65 Ha.
- If the proposed development is accepted as subthreshold, then EIA is required when considering the criteria in Schedule 7A of the PDR. The applicant includes a subsequent section outline a 'Statement of Environmental Effects' that demonstrated likely environmental effects on several topics

including population, ecology, water, air quality [nuisance] and cultural heritage (Malahide ACA).

- The effects may occur because of new works, new uses and the diversion of traffic, parking, and associated effects in the wider area.
- The proposed development may have in combination and cumulative effects when considered with amenity schemes that have been and continue to be carried out by Fingal County Council in the streets and land around New Street.

7.3. Application of Noel Mahon

- The applicant considers that Schedule 5, Part 2, Class 10 (vi) of the PDR applies for the proposed development.
- On the basis of likely traffic effects, the proposed development would likely have a significant effect over a wide densely populated area.
- There will be an adverse direct and indirect impact on existing land uses of the adjoining – including New Street, Old Street, Strand Street, Strand Court, and Main Street.
- The protection of residential amenity is a specific objective of the zoning for the area.
- The assessments prepared by FCC to screen out the need for EIA are invalid because they fail to consider existing, planned and proposed public realm projects in the area and vicinity including Broadmeadow Greenway, Coastal Cycle Route, Bridgefield Car Park, Green Refurbishment, Parklets on Main Street and Church Road.
- The proposed development alters traffic flows of over 50% of the Main Street and affects 100% of direct access to from the Marina residential area.
- When considered with the other public realm projects listed above, the proposed development will combine other traffic effects.
- Traffic will be diverted into residential areas at volumes and intensities that exceed thresholds for noise, air emissions and climate targets.
- The development is not consistent with the zoning and policy objectives for the area.
- Criteria for assessing additional traffic volumes are provided.

- The development occurs across a major signalised junction of the R106. Tails backs now regularly occur over a wide geographic area along Coast Road.
- Effect of congestion and road safety will induce effects on air, noise, and climate.

8.0 Assessment

Under the provisions of Article 120 (3) (b) of the PDR, the Board is required to provide a screening determination as to whether the development of public realm improvements for a pedestrianised New Street and associated development by FCC in Malahide, Co Dublin would be likely to have significant effects on the environment.

An EIA Screening Report was submitted by FCC to support the Part XIII Application, where it was concluded that there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIA Report is not required in respect of the proposed development. The applicants do not agree with the conclusion of this EIA Screening and have set out classes of development in which the proposed development could constitute EIA as well as identifying several environmental topics in which significant impacts could arise.

The following matters are considered relevant in the assessment of whether the submission of an EIA Report is required:

- Assessment of project type/class of development under Schedule 5 of the PDR, relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the PDR.
- Assessment of proposed development under the criteria set out Schedule 7 of the PDR.

An assessment of the proposed development against the above criteria is carried out in the sections that follow.

8.1. Project Types / Class of Development

The applicants in their submissions have indicated the classes in Schedule 5 within which the development is considered to fall, including:

- Schedule 5, Part 2, Class 10 (b) (vi).

In addition to those categories listed above, it is considered the following class should also be included.

- Schedule 5, Part 2, Class 13 (a) and (c).

Furthermore, it is considered that the following legislation should be considered for completeness:

- Section 50 (1) (a) of the Roads Act.

Having reviewed the details of the proposed development, the relevant legislation and guidance, and the documentation on file, each is considered below.

8.1.1. Class 10

Schedule 5, Part 2, Class 10 (b) (vi) Urban development which would involve an area greater than 2hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares 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.)

It is considered that this class of development may be applicable. Both FCC and all applicants have identified the proposed development of being of this class, Class 10 (vi), Urban Development. The proposed development is in an urban location which can be considered a ‘business district’. New Street is in the town centre of Malahide in which the predominant land use is retail and commercial. In the following section the relevant threshold is examined.

8.1.2. Class 13

Schedule 5, Part 2, Class 13 (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than – - 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.

It is not considered that this class of development is applicable. There proposed development is not a change or extension of development already authorised, executed or in the process of being executed.

Schedule 5, Part 2, Class 13 (c) Any change or extension of development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, which would result in the demolition of structures, the demolition of which had not previously been authorised, and where such demolition would be likely to have significant effects on the environment, having regard to the criteria set out under Schedule 7.

It is not considered that this class of development is applicable. There is no 'demolition' as part of the proposed development.

8.1.3. Section 50 (1) (a) of the Roads Act

Section 50 (1) (a) of the Roads Act lists the following forms of road development in respect of which there is a mandatory requirement to carry out EIA:

- i. the construction of a motorway.
- ii. the construction of a busway.
- iii. the construction of a service area, or
- iv. any prescribed type of proposed road development consisting of the construction of a proposed public road or the improvement of any existing public road.

The proposed development does not fall into the mandatory EIA categories (i), (ii) or (iii), as listed above, as it does not include the construction of a motorway, busway or service area. With regard to category (iv), Article 8 of the Roads Regulations 1994 (S.I. 119 of 1994) outlines the following prescribed types of proposed road development for the purpose of subsection (1) (a) (iv) of Section 50 of the Act shall be:

- a. the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500m or more in length in an urban area.
- b. the construction of a new bridge or tunnel which would be 100m or more in length."

The proposed development does not comprise a road with four or more lanes or include the construction of a new bridge or tunnel of 100m or more in length.

Therefore, it is not considered that this class of development is applicable.

8.2. Project Thresholds

As set out above, it is considered that the proposed development is of a class, Class 10 (b) (vi) for the purposes of EIA. The threshold cited under Class 10 (b) (iv) in the PDR is *'urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere'*.

The proposed development is in an urban location which can be considered a 'business district'. New Street is in the town centre of Malahide in which the predominant land use is retail and commercial. Therefore, the threshold is 2 hectares. The proposed development would be accommodated on a site of approximately .22 hectare.

The applicants raise the issue that the size of the urban development is larger than the site size identified and FCC are effectively splitting several projects that make up the Malahide Public Realm Strategy and other schemes in the area. When public realm strategy is considered wholly the 2 hectare is exceeded and an EIA is required according to the applicants.

However, it is considered that the projects in the strategy are not functionally interdependent with each other and the New Street project arises from a distinct need and is not integral to any other. It is reasonable that FCC in seeking the apply a public realm strategy would take individual distinct needs and present these to the planning system as required – this is inevitable for organisations undertaking large capital works programmes like local authorities. It is not considered that 'project-splitting' occurs.

Therefore, it is 'subthreshold', and a mandatory EIA is not required.

In such instances, where the development is 'subthreshold', an assessment should be made against the criteria for determining whether development listed in Part 2 of Schedule 5 which are set out in Schedule 7 of the PDR. This is set out below in Section 8.3.

8.3. Assessment under the Criteria set out in Schedule 7

The criteria for determining whether a development would or would not be likely to have significant effects on the environment are under the following headings:

1. Characteristics of proposed development.
2. Location of proposed development.
3. Types and characteristics of potential impacts.

Each of these criteria is assessed below.

8.3.1. Characteristics of proposed development

8.3.1.1. *Size & Design*

The proposed development is effectively an upgrading of the existing public realm on New Street and is significantly below the threshold for urban development. It will not extend, widen or alter the size of the street.

The design of the public realm improvements would not be significantly at variance with the established pattern of development on lands in a town and district centre. In the context of the size of the town of Malahide generally, the design of the street would assimilate into its wider environment and historic character.

8.3.1.2. *Potential for Cumulative Impacts with other Existing and/or Approved Projects*

The adopted FCDP has been subject to AA and SEA and considered the policy set out in 'Objective CSO63' to pedestrianise New Street. The SEA for the plan concluded that its implementation would not result in significant effects on the environment.

It is also noted that the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the wider town and the other projects identified above in Section 4.0.

The development is not associated with any significant loss of habitat or pollution which could act in a cumulative manner to result in significant negative effects to any Natura 2000 sites. There are no projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

Similarly, the development is not associated with any significant generation of traffic which could act in a cumulative manner to result in significant negative effects to the surrounding road network. The road network is relatively permeable in this area and any displacement of parking would be minimal in the context of the wider town. The

conclusions of the Traffic and Transportation Assessment submitted by FCC is considered reasonable in this context and the road network can absorb the redistribution of traffic.

Should the construction of the proposed development occur in tandem with other urban development, including those set out in Section 4.0 of this report and in particular the public realm projects listed, any impacts would be of a temporary nature and short-term given:

- the limited nature of works (i.e., no significant structures, length of street),
- the expected duration of the works (15 months),
- the location of lands to be developed (town centre),
- the location and distance to the other existing and/or approved projects.
- the likelihood of temporal overlap of construction works between projects.
- the implementation of standard and best practice construction and operation measures.

It is considered unlikely that significant cumulative impacts with other existing and/or approved projects would arise.

8.3.1.3. Nature of any Demolition Works

There are no buildings/structures on the site that require demolition.

8.3.1.4. Use of Natural Resources

There will be no significant use of natural resources, except for the existing trees and planter boxes/baskets that will require removal to facilitate works for the proposed development.

8.3.1.5. Production of Waste

There is no significant production of waste. During the construction phase, routine construction waste will be generated including excavated material from the site. This is not anticipated to be of any significant level and will be managed through standard construction practices and methodologies.

8.3.1.6. Pollution and Nuisances

During the construction phase there will routine construction related pollution and nuisance generated including noise, light, dust and traffic related impacts with the

potential to cause nuisance and impact on the amenities of adjoining dwellings and the town centre. There is also an indirect impact on the surrounding streets as a result of any traffic disruption. These impacts will be temporary and short-term and would be controlled as part of the standard and best practice construction measures.

During the operational phase there will be some pollution and nuisance associated with the use of the pedestrianised street owing mainly to noise, light and traffic. The operational phase may see increased numbers of people using the site also. There is also an indirect impact on the surrounding streets as a result of any traffic disruption. These impacts will be controlled as part of the standard and best practice operation measures. There is also sufficient availability of public transport and existing parking serving the site.

8.3.1.7. Risk of Major Accidents and/or Disasters including those caused by Climate Change

Having regard to the characteristics of the proposed development and its location it is considered unlikely that there is a risk of major accidents and/or disasters including those caused by climate change.

8.3.1.8. Risk to Human Health

There is no significant risk to human health. During the construction and operation phases risk to human health arising from pollution and nuisances listed in Section 8.3.1.6 would be controlled as part of the standard and best practice construction and operation measures.

8.3.2. Location of Proposed Development

8.3.2.1. Existing and Approved Land Use

The proposed development is effectively an upgrading of the existing public realm on New Street and is not considered to constitute a change of use. The proposed development is compatible with the existing use of the land.

8.3.2.2. Relative abundance, availability, quality and regenerative capacity of natural resources

The documents submitted by the FCC to support the planning application as well as the submissions of the applicants set out details of the natural resources and its environmental sensitivity in the area.

Within the site there will be no significant use of natural resources as set out in Section 8.3.1.4. Outside the site there will be no use of natural resources.

During the construction and operation phases risk to abundance, availability, quality and regenerative capacity of natural resources arising from pollution and nuisances listed in Section 8.3.1.6 would be controlled as part of the standard and best practice construction and operation measures.

The location of the proposed development is such that the natural resources used in the proposed development is limited and there would be minimal ongoing use of natural resources from the proposed use of the site.

8.3.2.3. The absorption capacity of the existing natural environment

The documents submitted by the FCC to support the planning application as well as the submissions of the applicants set out details of the natural resources and its environmental sensitivity in the area. The absorption capacity of the following areas of the natural environment are considered:

Hardstanding including Amenity Planting

The site itself does not have any specific natural heritage designations and the area to which the site relates is currently hardstanding. The use of the site by any species is limited given the conditions and existing use of the area which forms part of a wider town that is heavily populated. There is no specific floodings issues, although pluvial events may have occurred, at the site. The proposed development includes surface water management systems and is unlikely to increase flood risk. The hardstanding including amenity planting is not considered to be environmentally sensitive and has capacity to absorb the proposed development.

Populated Areas

New Street is surrounded by urban development, including residential zoned areas, road and marina infrastructure to the north. The design of the public realm improvements would not be significantly at variance with the established pattern of development on lands in a town and district centre. In the context of the size of the overall Street the wider environs of the residential area and the road infrastructure, the design of the public realm improvements would assimilate into the wider populated area and town.

It is not considered the proposed development in of itself would generate an anti-social or general social nuisance due to the ability to congregate and socialise on the street. These matters are wider social issues and would be subject to general criminal laws and licencing, should it arise.

During the construction and operation phases risk arising from pollution and nuisances listed in Section 8.3.1.6 would be controlled as part of the standard and best practice construction and operation measures. The populated areas are not considered to be environmentally sensitive and have capacity to absorb the proposed development.

Areas Protected under Legislation

There are two Natura 2000 sites within 200 metres of the proposed development. There is a hydrological pathway between the proposed development and the Natura 2000 sites as a result of surface water system currently in place. There are nineteen Natura 2000 sites within 15 km of the proposed development. There are also 18 pNHAs. Given the nature and scale of works, the introduction of a foul sewer for buildings on New Street, bio-retention features for the existing surface water drainage system and the restriction of vehicles, impacts on the natural resources are unlikely.

Pollutants from motor vehicles may enter the surface water drainage network on New Street – this is to be expected in such an urban location where motor vehicles are present. It is noted that vehicular traffic will be limited on New Street and will utilise the adjoining road network – this relatively minor change in traffic patterns is not considered to increase or decrease the likelihood of pollutants entering the surface water drainage network. It is accepted that unintended pollutants from motor vehicles using the road network entering the surface water drainage network could occur on any road, in any location, at any time in the general Malahide area – the proposed development would not in of itself be the reason for such an occurrence.

While the areas protected under legislation are considered to be environmentally sensitive, they have capacity to absorb the proposed development subject to standard and best practice construction and operation measures.

Sites of Historical, cultural or Archaeological Significance

There are no sites of archaeological significance at the site.

The capacity of the ACA to absorb the proposed development is raised by the applicants due to the architectural designations on the street. While this designation is noted and an impact may arise, it is considered that, based on the design of the proposed development, the ACA would have the capacity to absorb the proposed development in the context of the wider ACAs significance at this location in an urban area.

8.3.3. Types and Characteristics of the Potential Impact

8.3.3.1. *Nature, magnitude and extent of the impact*

The extent of the impact in terms of geographical area and the size of the population likely to be impacted is limited to the immediate town of Malahide. There may be some downstream impacts on designated sites owing to the hydrological connections.

Population and Human Health

During the construction and operation phases impacts arising from pollution and nuisances listed in Section 8.3.1.6 would be controlled as part of the standard and best practice construction and operation measures. It is considered unlikely that significant impacts would arise on population and human health.

Biodiversity

There is no direct impact to the site of the proposed development. Given the high level of human activity at this site it is not considered that significant displacement of species would be likely to occur as a result of the proposed development.

Having regard to the separation distance from the European sites; the environment between the site and the Malahide Estuary; the design of the proposed development including the surface water drainage systems and design measures to limit transference of pollutants, the nature of the site which is surrounded by existing urban development; and the scale of the proposed development, and best practice construction and operation practices to be used it is considered that impacts to the European Sites during the construction phase would be limited.

On this basis it considered unlikely that significant impacts would arise on biodiversity.

Land, Soil, Water, Air and Climate

Having regard to the characteristics and location of the proposed development, it is considered unlikely that significant impacts would arise on land and soil.

During the construction and operation phases impacts arising from pollution and nuisances listed in Section 8.3.1.6 would be controlled as part of the standard and best practice construction and operation measures. It is, therefore, considered unlikely that significant impacts would arise on water, air and climate.

Material Assets, Cultural Heritage and the Landscape

There will be a visual impact associated with the installation of this facility and in particular on the ACA identified in the development plan. It will be a new design for the street and will be a noticeable change.

However, when considering the size and design of the public realm improvements which incorporates additional tree planting as well as the existing interventions to the ACA (including alterations to the buildings adjoining the street, commercial signage, on-street car parking), it is considered that the public realm improvements will assimilate into the architectural townscape and the ACA and would not be visually obtrusive and would not, interfere with the character of the ACA and form an obtrusive or incongruous feature. The conclusions of the architectural assessment submitted are considered reasonable.

It is considered unlikely that significant impacts would arise on the ACA.

Having regard to the characteristics and location of the proposed development, it is considered unlikely that significant impacts would arise on material assets and cultural heritage.

Traffic and Transport

The development is not associated with any significant generation of traffic which could result in significant negative effects to the surrounding road network. The road network is relatively permeable in this area and any displacement of parking would be minimal in the context of the wider town. It is also noted that traffic arrangements currently being applied restrict use of the street and the analysis shows that, when comparing the 2023 post-pedestrianisation with the 2019 pre-pedestrianisation scenarios, there are minimal effects on the capacity for the surrounding junctions. The conclusions of the Traffic and Transportation Assessment submitted by FCC is

considered reasonable in this context and the road network can absorb the redistribution of traffic.

Having regard to the characteristics and location of the proposed development, it considered unlikely that significant impacts would arise in relation to traffic and transport.

Major Accidents or Disasters

Having regard to the characteristics and location of the proposed development, it considered unlikely that significant impacts would arise in relation to major accidents and disasters.

Interaction between the factors

There is potential for interactions between various environmental factors, notably between land and biodiversity and population. These would be controlled as part of the standard and best practice construction and operation measures. On this basis it considered unlikely that significant impacts would arise from the interaction between factors.

8.3.3.2. Probability, intensity and complexity of impacts

Temporary noise, dust and traffic impacts may also arise. Having regard to the nature and scale of the proposed development, the nature of the environmental impacts are not complex or intense.

Having regard to the nature and scale of the proposed development and noting the measures outlined in documentation it is considered that the nature of the environmental impacts during the construction and operation phase are not particularly complex or intense.

8.3.3.3. Expected onset, duration, frequency and reversibility of the impact

Having regard to the nature and scale of the proposed development, it is expected that the impacts will be on-going, long term and will generally only be reversible if the constructed elements of the scheme are removed. The construction phase impacts, of approximately 15 months will be of short duration and limited frequency.

8.3.3.4. Transboundary nature of impact

There will be no transboundary impacts associated with the proposed development.

8.3.3.5. Cumulation of Impact

Having regard to Section 8.3.1.2 it considered unlikely that significant cumulative impacts would arise.

8.3.3.6. Possibility of effectively reducing impact

The implementation of standard best practice methodologies during the construction and operation phase of the proposed development will result in a reasonable possibility of effectively reducing potential impacts.

9.0 Other Issues

9.1. Duplicate Submissions

A concurrent and separate application for an AA Screening Determination is being considered under ABP-317131-23. The submissions of the applicant is similar and blend issues related to EIA and AA. This is unavoidable given the manner in which the legislation is set out. Regardless, the author of this report is satisfied to have address all issues raised in both determination requests.

10.0 Recommendation

Having regard to the above assessment, it is considered that the proposed development would not be likely to have significant effects on the environment and, accordingly, an Environmental Impact Assessment is not required.

It is therefore recommended that Fingal County Council be advised that the preparation and submission of an Environmental Impact Assessment Report is not required in respect of the proposed development.

11.0 Reasons and Considerations

Having regard to the following:

- the criteria set out in Schedule 7 and the information provided in Schedule 7A of the Planning and Development Regulations 2001, as amended,
- the limited nature and scale of the proposed development which is under the threshold in respect of Class 10b(iv) (Infrastructure – Urban Development) of the Planning and Development Regulations 2001, as amended,

- the location of the site on lands in a Town and District Centre location as described in the Fingal County Development Plan 2023-2029 and the results of the Strategic Environmental Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),
- the location of the site in a built-up area served by public infrastructure and the existing pattern of development in the vicinity,
- the limited potential for significant impacts arising from the proposed development,
- the submission made by the local authority,
- the submissions made by the applicants requesting a determination,
- the report and recommendation of the Inspector,

It is considered that the proposed development would not be likely to have significant effects on the environment and, accordingly, an Environmental Impact Assessment is not required.

Professional Declaration

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Tomás Bradley,

Senior Planning Inspector

28th August 2023