



An
Bord
Pleanála

Inspector's Report ABP317941-23

Development

Demolition of disused garage canopy, decommissioning of underground fuel tanks, alterations to existing entrance, new site access road, construction of 6 x 2storey detached houses, new boundary wall along public road R125, associated landscaping, utilities and site works.

Location

The Rath, Sandyhill, Rolestown, Co. Dublin, K67 FW31.

Planning Authority

Fingal Co. Co.

Planning Authority Reg. Ref.

F23A/0340.

Applicant(s)

Bellevue Properties Limited.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First / Third Party

Appellant(s)

Bellevue Properties Limited.

Observer(s)

None.

Date of Site Inspection

10th November 2023

Inspector

Aisling Dineen.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
4.0 Planning History.....	9
5.0 Policy and Context.....	10
5.5. Development Plan.....	14
5.6. Natural Heritage Designations	15
5.7. EIA Screening	15
5.8. Grounds of Appeal	15
5.9. Planning Authority Response	19
5.10. Observations.....	20
5.11. Further Responses	20
6.0 Assessment.....	20
7.0 Recommendation.....	33
8.0 Reasons and Considerations.....	33

1.0 Site Location and Description

- 1.1. The site is located within the townland of Rath, which is positioned on the outskirts of the village of Rowlestown in north Co. Dublin (also known as Rolestown).
Rowlestown is a commuter village, which has evolved around two parallel roads, which run in an east-west direction and are connected by an intersecting road that crosses the Broadmeadow River. The R125, whereon the appeal site is situated, runs along the southern side of the village and connects with Swords, approximately 6 km to the east. Ashbourne is situated approximately 6.5km to the west of the Rowlestown.
- 1.2. The centre of the village of Rowlestown is considered to be in the area of Church Road, which sits on the parallel road to the north of the appeal site on the other side of Broadmeadow River. Here the majority of the services are located including the parish church, burial ground, national school and community centre, which also contains a creche.
- 1.3. There is also a service hub located along the R125, which is situated c. 690 metres to the west of the appeal site. This service hub comprises a petrol station with attached convenience shop and a small offering of retail units with associated parking. The intervening land between the appeal site and the said service hub comprises agricultural land with one-off housing and there is also small housing development under construction. There are two bus stops proximate to the site, one of which is c.30 metres west of the site on the R125.
- 1.4. The appeal site comprises a stated area of 0.36 hectares and is located south of the R125 (known as Oakhill Road) in Rowlestown. The front of the site contains a disused service station with canopy and underground fuel storage units/paved area. The rear of the site is essentially disused land, which is bounded by hedgerow/some mature tree species. There is a small pocket of residential development, in the form of terraced dwellings, on the land immediately adjacent and east of the appeal site.

2.0 Proposed Development

- 2.1. It is proposed to demolish the existing disused garage/petrol station canopy and decommission underground fuel tanks and associated equipment. It is also proposed to construct 6 No two storey detached houses. House type A is to be situated on sites numbers 2 to 5 and would comprise two-storey, 4 No bedroom dwellings of 177 square metres in floor area. House type B is proposed to be situated on sites numbers 1 and 6 are proposed to comprise two-storey, 3 No bedroom dwellings of 92 sq. m. in floor area. There is a central access road proposed and public open space is proposed to be situated on the east boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to refuse planning permission for 4 No reasons on the 8th August 2023.

The refusal reasons are as follows:

1. The proposed development would be contrary to the zoning objective for the area, 'RV' Rural Village, as set out in the Fingal Development Plan 2023-2029, which required that an approved land use plan be in place for the rural village of Rowlestown. The proposed development would be premature pending the making of an approved land use plan, would conflict with the zoning objective of the area as set out in the development plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the lack of adequate information submitted with respect to the proposed decommissioning of the underground fuel tank, the applicant has therefore failed to demonstrate compliance with the provisions of the Fingal Development Plan 2023 -2029 and the proposed development could therefore be prejudicial to environmental and public health.

3. Having regard to the lack of adequate information submitted with respect to the proposed transportation provision, water services requirements, landscaping and tree protection and appropriate assessment screening, the applicant has therefore failed to demonstrate compliance with the provisions of the Fingal Development Plan 2023-2029 and the proposed development could therefore be prejudicial to the proper planning and sustainable development of the area.
4. The proposed suburban layout and design of the proposed development would set an undesirable precedent for other similar residential developments within the rural village of Rowlestown, which would in themselves and cumulatively, be harmful to the visual and residential amenities of the area and, would, therefore be contrary to the proper planning and sustainable development of the area.

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report cites a previous planning application on the appeal site FO4A/0276.

The report cites a recent previous planning application on a site in Rowlestown, which was refused: ABP 312898-22.

Report discusses relevant policy and concludes the proposal would be premature in the absence of a Masterplan.

The principle of demolition and decommissioning of service station is acceptable but insufficient information is submitted.

Design of internal space in proposed dwellings is acceptable. House design is discussed – generally acceptable however dwelling type B at house 1 should be revised. No concerns regarding overlooking/overshadowing. Proposed roof design is not consistent with existing roof pattern in the vicinity and overall design is

considered to be suburban in nature. Transportation Section require further information. Parks and Green Infrastructure division dissatisfied with public open space. Environmental Health section requires further information.

3.2.2. Other Technical Reports

Housing Department

The applicant lodged a Part V proposal to this department which was deemed to be acceptable.

A Part V validation letter was deemed to be acceptable.

If permission is granted the developer is to liaise with the Housing Dept, with respect of an agreement to satisfy the Part V obligation under the Planning and Development Act 2000 (as amended).

Parks & Green Infrastructure Division

The required public open space is not provided – the requirement for this development is 0.054 ha (15% of the site) in accordance with objective DMSO52 of the Fingal Development Plan. The minimum size of public open space for taking in charge is 500 sq. m. Passive supervision of public open space to be considered.

Two car parks are located on the open space. It would be preferable if these were omitted in order to provide a more useable area of open space.

No information is provided on existing trees and hedgerows. Timber boundary treatment is not acceptable.

A detailed landscaping plan is required for this development.

Transportation Planning Section

Further Information Required regarding the following:

- Revised vehicular access detail required – to give priority to pedestrians on footpath.
- Car parking layouts for houses No's 1, 2 and 3 to be revised to ensure layout would not invite perpendicular parking.

- Details regarding the following required: signage, carriage way build up details, carriageway/footpath/kerb levels, streetlighting, access for bin storage/bikes, boundary walls, strip along eastern edge of access road to be reconsidered, guest parking at the green to be reconsidered to improve visibility, front boundary walls' heights shall be a maximum of 900 mm to provide for visibility for road users.
- A drawing to be provided indicating areas for 'taking in charge'.

Water Services Department

Further Information required regarding the following:

The surface water drainage proposal is not acceptable in its current form and is not in accordance with Objective GI 20, 21, and 23 of the Fingal County Council Development Plan 2023-2029. The proposal should incorporate more nature-based measures which are acceptable in SuDS objectives of the plan. Underground attenuation tanks to be avoided.

No storm water network to connect onto the R125. Surface water must not be mixed with foul water under any circumstances. A detailed narrative is to be provided regarding how the outfall to the proposed development will be provided.

Surface water drainage must be in compliance with the "Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

Regarding flood risk the proposed development is considered to be a highly vulnerable development but located in its entirety within Flood Zone C (i.e., less than 0.1% AEP).

3.3. Prescribed Bodies

Irish Water

Recommendation: Further Information required.

Connection agreement required to be signed with Irish Water prior to the commencement of development.

Development to be carried out in compliance with Irish Water standards, codes and practices.

Any proposals to divert or build over existing water or waste water services shall be submitted to Irish Water for written approval prior to works commencing.

Separation distances between existing Irish Water assets and proposed structures, other services, trees, etc., have to be in accordance with Irish Water Codes of Practice and Standard details.

Dublin Airport Authority

No objection.

Health and Safety Authority

No objection.

4.0 Planning History

F04A/0276: On the 23rd April 2004, the planning authority made a decision to refuse planning permission, on the subject site, for the following development and for the following reasons:

Change of use from existing two storey shop and games room to two-storey dwelling with new shared vehicular access. Also, to construct new single storey shop at existing service station with new car wash to rear.

Refusal Reasons:

Section 4.3 of the Rowlestown Local Area Plan, adopted 9th December 2002 states that: 'The Council recognise the need to provide for and facilitate limited retail, community and educational facilities to a level appropriate to the projected scale of residential development. These facilities will be located within close proximity of the existing church and community centre and also provide a focal point for the existing village.' It is considered that the substantial increase in floor area of the existing shop, combined with the expansion in services provided, would negatively impact on Council's efforts to promote a village centre in the region of the Church. The proposal thus materially contravenes the provisions of the Rowlestown Local Area Plan and the County Development Plan 1999 and as such would be contrary to the proper planning and development of the area.

The proposed development, by reason of the intensification of use and the lack of an adequate piped water supply in the area, would be premature, and contrary to the proper planning and development of the area.

The proposed development, by way of a failure to submit acceptable details of the proposed foul sewer and surface water drainage, including connections to the public sewer, would be prejudicial to public health and as such is contrary to the proper planning and sustainable development of the area.

The proposed additional access and lack of carparking to serve the expanded shop are likely to adversely impact on the safety and convenience of traffic on this heavily trafficked regional route.

5.0 Policy and Context

5.1. National Policy Project Ireland 2040 - National Planning Framework (NPF)

The NPF 2040 was adopted on the 29th May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside.

The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

The following sections and National Policy Objectives, (NPO's) are of relevance to the appeal;

Chapter 5 – Planning for Diverse Rural Places

NPO 15 – Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

NPO 18a - To support the proportionate growth of and appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services.

Chapter 6 – People Homes & Communities

NPO 27 - Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages

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.

NPO 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Section 6.6 - It is envisaged that Ireland's future homes will; - be located in places that can support sustainable development - places which support growth, innovation and the efficient provision of infrastructure, are accessible to a range of local services, can encourage the use of public transport, walking and cycling, and help tackle climate change: - still be located in our smaller towns, villages and rural areas, including the countryside, but at an appropriate scale that does not detract from the capacity of our larger towns and cities to deliver homes more sustainably.

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

The Guidelines set out the key planning issues to be considered in the provision of new housing development in terms of sustainable development.

Chapter 6 – Smaller Towns and Villages

Advice contained in this chapter states that;

- Development in smaller towns and villages must be plan led.
- New development should contribute to compact towns and villages

- Higher densities are appropriate in certain locations, - Offer alternatives to urban generated housing,
- The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development.

Section 6.11– Density – Edge of centre sites.

Densities to a range of 20-35 dwellings per hectare will be appropriate.

Section 6.12 – Density – Edge of small town / village

It is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question.

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

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

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

They require that planning conditions be attached to restrict new houses and duplexes to first occupation and use by individual purchasers and those eligible for social and affordable housing including cost-rental, in order to ensure an adequate choice and supply of housing.

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

This strategic plan identifies regional assets, opportunities and pressures as well as setting out appropriate policy responses in the form of Regional Policy Objectives (RPO's).

It provides a framework at a strategic level for investment to better manage spatial planning and economic development to sustainably grow the Region to 2031 and beyond.

Chapter 2 – Strategic Vision, recognises that this region contains: 'some of the fastest growing communities in the country and the long-term trend is for residential development moving further outwards from Dublin, with significant growth in many of the small towns and villages in the peri-urban area surrounding the city leading to an increase in car-based long-distance commuting. At the same time, an overall lack of adequate housing supply to meet a growing population has resulted in affordability issues and increasing homelessness, with a resulting negative impact on quality of life and regional competitiveness'.

Chapter 4 – People and Places is of particular relevance to the proposed development and contains the following objective:

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

Section 4.8 deals specifically with Rural Places, Towns, Villages, and the Countryside. It states that, 'In general, those rural places in proximity to large urban centres have experienced significant growth and urban generated pressures and

require levels of growth to be managed in order to ensure that there is a requisite service level for the existing population’.

5.5. Development Plan

Fingal County Development Plan 2023 – 2029

Zoning Designation, *RV – Rural Village*, where it is the objective of the plan to: *‘Protect and promote the character of the rural village and promote a vibrant community in accordance with an approved land use plan, and the availability of physical and community infrastructure’.*

The Vision associated with this Zoning Designation is as follows:

Protect and promote established villages within the rural landscape where people can settle and have access to community services, including remote work hubs. The villages are areas within the rural landscape where housing needs can be satisfied with minimal harm to the countryside and surrounding environment. The villages will serve their rural catchment, provide local services and smaller scale rural enterprises. Levels of growth will be managed through approved land use plans to ensure that a critical mass for local services is encouraged without providing for growth beyond local need and unsustainable commuting patterns.

Policy CSP7 Masterplans

Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.

CSP8 Implementation of Masterplans

Implement Masterplans prepared in accordance with the Development Plan.

Table 2.18 Schedule of Masterplans to be completed over the plan period:

Rowlestown scheduled under (MP 3.C) (Page 63 of the plan).

Chapter 3, Section 3.5.15.1

In accordance with Fingal’s Settlement Hierarchy, rural villages within the County are located within either the Metropolitan or Core areas, relative to their position to Dublin City and Suburbs and Metropolitan area.

Policy SPQHP51 Protection of Rural Villages: *Support and protect Fingal’s Rural Villages by ensuring their appropriate sustainable development to preserve the character and viability of villages and support local services.*

Chapter 14, Section 14.12.1

Chapter 3 Sustainable Placemaking and Quality Homes, sets out the development approach for the Rural Villages and Rural Clusters within Fingal. Fingal’s Rural Settlement Strategy is also set out in Chapter 3.

The designated Rural Villages of Fingal include: ‘Rowlestown’ inter alia.

These are mostly traditional village-type settlements and have the Rural Village (RV) zoning objective.

Village development shall be guided by adopted Local Area Plans and Village Development Framework Plans, where in place and by future Framework Plans where identified.

5.6. Natural Heritage Designations

The Malahide Estuary SPA (Site Code 004025) (also known as Broadmeadow/Swords SPA) is situated c. 6.5 km southeast of the site. The Malahide Estuary SAC (Site Code 000205) is situated c. 6.5 km southeast of the site.

5.7. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.8. Grounds of Appeal

- The proposal is consistent with the sites zoning objective RV – Rural Village, where residential development is permitted in principle.

- The proposal represents efficient and sustainable use of centrally located, zoned and serviced land and is an appropriate response to the infill/backland site and provides a high standard of residential development.
- The proposal will enhance the streetscape along Oakhill Road by providing a sympathetic design solution, which relates well to surrounding context.
- The proposal avoids any negative impacts on adjoining properties.
- The quantum of development is 6.74 per hectare which accords with the 2009 Sustainable Urban Housing Guidelines.
- The proposal meets quantitative standards as per the Fingal County Development Plan 2023 – 2029 and Quality Housing for Sustainable Communities Guidelines (2007).
- The proposal accords with key objectives under the RSES (2019 – 2031) in that it contributes to compact growth.
- The proposal accords with the NPF which aims for 40% of all new housing to be within existing built-up areas of cities towns and villages on infill and or brownfield sites.
- The site is serviced by bus routes and there are two bus stops proximate to the site.
- The applicant is seeking to provide development that suits the needs of people looking to downsize from larger dwellings in the area.
- The current Fingal County Development Plan 2023 – 2029 retains the same zoning provisions as the previous 2017 – 2023 Development Plan, with the lands being zoned RV – Rural Village, where it is the objective of the plan to *‘Protect and promote the character of the rural village and promote a vibrant community in accordance with an approved land use plan, and the availability of physical and community infrastructure’*.
- Various national policies and policies under *Fingal Development Plan* are outlined, relating to place making, new residential and quality development, consolidated development, compact growth, social and affordable cost rental housing, vitality of communities.

- Design Criteria under the Fingal Development Plan are met or are exceeded under the subject proposal.
- The parking requirements set out have been reduced from those outlined in the current plan reflecting a shift towards more sustainable modes of transport. 14 car parking spaces are proposed.
- Regarding refusal reason No 1, the following points are made:
 - The lands under the Fingal Development Plan 2023 -2029 retain the same zoning as the previous 2017 - 2023 Development Plan, 'RV – Rural Village' and the residential use is 'Permitted in Principle'.
 - The proposal complies with various policies set out under Section 3 of the Fingal Development Plan 2023 -2029 and it is submitted that the proposal positively responds to those policies and makes efficient use of zoned lands, within the development boundary of Rolestown, which have been vacant for some time at a time when there is a shortage of family sized homes in the Dublin region. It also protects the character of Rolestown village.
 - Residential development is permitted in principle on RV zoned lands.
 - Upon review of the Rolestown Urban Capacity Analysis Table, all lands identified are zoned RV – Rural Village. Such locations comprising brownfield sites are considered to be optimal locations for concentrated population and employment growth.
 - The proposed masterplan for Rolestown may be a time and resource intensive process and the subject lands may be undeveloped and underutilised for years to come. The view adopted by planning authority is considered to be harsh.
- Regarding refusal reason No 2, the following points are made:
 - To avoid risk of pollution the underground storage tanks will be permanently removed. Steps (1 to 9) to decommission the underground storage tanks are set out, including contingencies which include the provision that a suitably qualified person should supervise the decommissioning works and collect soil samples.

- Regarding refusal reason No 3, the following points are made:
 - Regarding transportation concerns, it is noted that the Transportation Planning Section recommended that further information be requested.
 - In response to concerns raised a revised parking layout is provided for house numbers 1 to 3, which has similar parking arrangements to those permitted throughout Fingal County Council and Dublin City. Planning references are provided.
 - The applicant would accept conditions regarding the following: crossing arrangement, signage incl. stop signs, swept path analysis, taking-in-charge compliance, bin storage area, boundary wall treatment, treatment of 500 mm wide strip on east boundary, road/footpath/kerb levels, guest parking layout, reinstated kerb height, EV charging points.
 - Regarding water services concerns, it is submitted that a typo was included within the Civil Engineering report and that as per Section 3 of the report it is proposed to construct a new separate drainage system for the site. Also, drawing number 22099 TNT XX XX DR C 92001 clearly displays no mixing of surface water and the combined sewer. A revised civil engineering report is submitted under the appeal.
 - Regarding the Parks and Green Infrastructure Division report it is noted that this report requested further information. Regarding the requirement for 15% public open space, the forthcoming *Sustainable and Compact Settlements Guidelines for Planning Authorities* state under SPPR 3 that new public open space requirements is 10% and accordingly 11 % is sufficient.
 - Revised boundary details are submitted and can be agreed with the planning authority by way of a compliance submission. Additionally, a landscape and arboriculture plan can be requested by condition of permission.
 - Regarding appropriate assessment, it is submitted that the main potential indirect risk will be indirect hydrological connection. However, the incorporation of a SUDS drainage system into the development will ensure no negative impact on protected habitats. The proposed development is smaller in scale to F18A/0522 where the planning authority states that the proposed development would not be

likely to have a significant effect either individually or in combination with other plans or projects on any European sites in the vicinity.

- Regarding refusal reason No 4, the following points are made:
- A number of planning precedent applications for residential development are listed, which have been granted planning permission in the vicinity and within the functional area of Fingal County Council. These are stated to be within small villages similar to Rolestown. The board is requested to consider the precedent in the context of Objective CSO 65, which aims to: *‘Protect and enhance the unique physical character of historic town and village centres’*

5.9. Planning Authority Response

- The planning authority is of the opinion that the proposed development would be contrary to the zoning objective for the area, ‘RV’ rural Village, as set out in the Fingal Development Plan 2023-2029, which required that an approved land use plan be in place for the rural village of Rowlestown and that, as such, the proposed development would be premature pending the making of an approved land use plan.
- Additionally, the planning authority holds that the proposal has not adequately addressed the issue of proposed decommissioning of the underground fuel tank, and therefore, the proposed development could be prejudicial to environmental and public health.
- There are outstanding issues regarding transportation provision, water services requirements, landscaping and tree protection and appropriate assessment screening, which in conjunction with one another and with other concerns of the planning authority cannot be sufficiently addressed via additional information.
- The proposed development is considered to be suburban in nature and would not adequately integrate and support the ‘RV’ Rural Village vision pertaining to the subject sites land use zoning.
- An Bord Pleanála is requested to uphold the decision of the planning authority.

- If the appeal is successful the Councils Section 48 Development Contribution Scheme should be applied.

5.10. **Observations**

None.

5.11. **Further Responses**

None.

6.0 **Assessment**

6.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reasons for refusal and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Design/Layout/Visual Amenity
- Residential Amenity
- Traffic Safety
- Human Health
- Other Issues
- Appropriate Assessment

6.2. Principle of Development

6.3. The appeal site is situated to the southeast of Rowlestown village and is within the development boundary for the village. It is considered that the site is within the outskirts of the village nearing the outer edge of the settlement boundary. Land uses within the area consist of residential development of generally a low-density nature, including one off housing, with the exception of a small terrace of dwellings, presently under refurbishment, on the site to the east of the subject dwelling.

- 6.4. The Rowlestown Local Area Plan 2013 is now expired.
- 6.5. The site has the zoning designation RV – Rural Village under the Fingal County Development Plan 2023 - 2029, wherein it is a specific objective of the development plan to: *Protect and promote the character of the rural village and promote a vibrant community in accordance with an approved land use plan, and the availability of physical and community infrastructure*.
- 6.6. The planning authority refused planning permission for four reasons but it is considered that the first refusal reason is perhaps the most salient, in that it refers that the proposal would conflict with the development objective associated with RV lands and that it would be *'premature pending the making of an approved land use plan, would conflict with the zoning objective of the area'*.
- 6.7. The first party appeal submission contends that the proposal responds positively to the stated policies of the plan and the regional and national policies in that it makes efficient use of zoned lands within the development boundary of Rowlestown by providing a sustainable residential density, which promotes consolidation of development within Rowlestown. The first party submission also argues that the zoning of the site under the current development plan, Fingal County Development Plan 2023 -2029 is the same zoning as that which existed heretofore under the Fingal County Development Plan 2017-2023 which is RV, Rural Village and that residential development is 'Permitted in Principle'. I concur with the appellant regarding the zoning of the site and I note that the previous plan, also required that development with such zoning designations to be; *'In accordance with approved Local Area Plans and infrastructure provision. Village development shall be guided by the adopted Local Area Plans and Village Development Framework'*.
- 6.8. A number of planning permissions, which have been previously granted within the area of Rowlestown and also within other towns/villages with the zoning RV are listed in the functional area of Fingal County Council, in support of the principle of the proposed development.
- 6.9. While it is accepted that a number of housing developments have been permitted on such RV zoned lands within the last number of years, it is also noted that the current Fingal County Development Plan 2023 – 2029 adopted on the 22nd February 2023 has specifically cited that new development shall be: *'in accordance with an*

approved land use plan'. Furthermore, the vision for such towns and villages also states the following:

Levels of growth will be managed through approved land use plans to ensure that a critical mass for local services is encouraged without providing for growth beyond local need and unsustainable commuting patterns.

- 6.10. In addition to the above, the plan has clearly and expressly named Rowlestown as being scheduled for a masterplan under Table 2.18 '*Schedule of Masterplans to be completed over the plan period*' (MP 3.c).
- 6.11. The above adopted policy is considered to be reasonable and accords with proper planning and sustainable development.
- 6.12. I do not necessarily concur with the submission from the appellant that a proposed new masterplan for Rowlestown will be a time and resource intensive process, as it is reasonable to assume that it has been categorised as a significant when it is expressly referred to under the schedule of plans in the Fingal County Development Plan 2023-2029. Accordingly, I consider that, without prejudice, the period within which the constraints involved may reasonably be expected to cease. (Planning and Development Act 2000 (as amended), Schedule 4, Article 3).
- 6.13. Overall, I have concerns regarding the lack of a specific land use plan for the settlement in conjunction with the the outlying location of the site within the development boundary of Rowlestown and in addition to the objective of RV lands to: '*Protect and promote the character of the rural village and promote a vibrant community in accordance with an approved land use plan, and the availability of physical and community infrastructure*'.
- 6.14. In the same light I consider that policy cited under Policy SPQHP51, and CSP 7 and Section 14.12.1 of the Fingal development Plan 2023-2029, relating to place making, rural villages and development approach to same, to be important policies.
- 6.15. I would concur with the planning authority's view that the proposal has a suburban design scheme. It is noted that the appellants submission acknowledges the edge of settlement location of the site; '*the sites highly accessible location on the outskirts of Rowlestown*'. It is not possible to say at this juncture, if the subject lands would be part of a chronologically zoned/phased approach to development, if zoned

residential, in any forthcoming plan, without prejudice, nor is it possible to analyse the quantum of development for the site, in the absence of a local area plan/masterplan. In the absence of a masterplan/local area plan for the area, to permit this proposal would fall within a development led approach over and above a desired plan led approach to development, notwithstanding the Urban Capacity Assessment included under the supplementary documentation to the development plan.

- 6.16. A number of planning permission reference numbers have been quoted under the appeal submission. It is considered that a recent planning permission decision by An Bord Pleanála, of June 2023, ABP 312898-22 (LA reference number: F21A/0658) is relevant regarding the subject of principle of development and the requirement for an approved land use plan for Rowlestown. This application/appeal concerned an application for permission for 21 houses, *inter alia*, on RV zoned land in Rowlestown, therefore it has the same zoning designation as per the instant appeal. The Board adopted the viewpoint and made a decision to refuse planning permission for reasons that, to paraphrase, the proposed development would be contrary to the zoning objective of Fingal County Development Plan 2023 – 2029, which required that an approved land use plan be in place for the village of Rowlestown and that the proposed development would be premature pending the making of a local area plan for Rowlestown.
- 6.17. The Board also considered Chapter 3 Section 3.5.15.1 and Chapter 14, Section 14.12.1 of the Fingal County Development Plan 2023-2029, in making its decision.
- 6.18. Having reviewed the file in totality and in context with the site location and planning precedent and having reviewed the operative development plan; Fingal County Development Plan 2023-2029, I concur with the decision of the planning authority to refuse planning permission based on the fact that the proposal is premature, pending the making of a local area plan. Accordingly, I do not consider that the principle of the proposed development to be acceptable, at this point in time.
- 6.19. Design/Layout/Visual Amenity
- 6.20. The subject of design and layout of any development must be informed by the quantum/density of development appropriate to any given site as prescribed under

the zoning provisions, relevant policy and the operable development plan for the lands concerned.

- 6.21. Under the instant appeal, as there is presently no local area plan in operation it is not possible to assess the design and layout of the proposal as against any prescribed density or chronology of development policy.
- 6.22. However, a few points have been raised under the appeal documentation, which are relevant. The planning officer has stated that the proposed development is suburban in style. I would concur with this viewpoint and from my review of the area and the land uses therein it would appear that the pattern and form of the proposed housing development conforms to a more urban/suburban pattern of development, than that of rural village. Having noted the outer edge of settlement location of the appeal site, the proposed development is considered to be at odds with and/or out of context with the prevalent land uses in its general environs, with the exception of the terraced row of houses on the adjacent site.
- 6.23. With regard to the overall layout, without prejudice, were the proposal being assessed with the benefit of 'Residential' zoning, I would concur with the Parks and Green Infrastructure Division, whereby It is stated that the proposal does not comply with the requirements stipulated within the Fingal County Development Plan 2023 - 2029, objective DMS 052 (Table 14.2), which requires a '*Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply*'.
- 6.24. The appellant has argued that forthcoming policy *Draft Sustainable and Compact Settlements Guidelines for Planning Authorities* (August 2023) would support the provision of 10% public open space and that 11% has been provided. It is considered that the recently adopted Fingal County Development Plan 2023-2029 has clearly cited its objectives with regard to public open space. Additionally, in this instant site the public open space provided does not have the benefit of passive surveillance to the maximum number of units nor is it deployed so as to add residential amenity to as many of the proposed units as possible. Where a reduction of quantitative standards would be acceptable an increase in qualitative/design standards would be required. Accordingly, I concur with the planning authority regarding the lack of/quality of public open space provided and I consider that this

issue in conjunction with the overall suburban nature of the development in this particular site context, would negatively impact the visual and residential amenities of the area.

6.25. Residential Amenity

6.26. The proposed development does not involve overlooking or overshadowing of any adjacent properties and the minimum standards of private open space per dwelling have been achieved. Therefore, in regard to minimum private open space requirements as per proposed residential units, it is considered that minimum standards are achieved.

6.27. Traffic Safety

6.28. The appeal site is positioned within a 50 km/hr speed limit area on land zoned as RV – Rural Village. The site is also served by a public footpath and lighting, albeit somewhat removed from the village centre. The Transportation Planning Section report has verified that it is satisfied with the sight lines provided, which are stated to be in excess of the DMURS requirements of 45 metres visibility in both directions at a 2.4 metre setback and at an object height of 0.6 metres. My inspection of the site entrance/egress also supports this viewpoint.

6.29. Note: The previous planning application on the appeal site referred to the area around the Church and Community Centre/Creche and burial ground, which is on the north side of the Broadmeadow River as village centre. In the absence of an operable Local Area Plan/Masterplan and upon inspection of the area, the reasonable assumption is that this area remains as the village centre.

6.30. The Transportation Planning Section also listed a number of items, which were not to its satisfaction and would be required under additional information. These issues related to the following; main vehicular access details, signage, swept path analysis, carriageway details, street lighting, bin access, boundary walls, eastern edge access road, kerb levels, guest parking, taking in charge, EV charging points. The appellants submission includes revised parking proposals and includes parking layouts for numerous other developments which have been already constructed and also contends that all of these items could have been addressed by way of a further information request.

- 6.31. I agree with both of the above viewpoints and I consider that outstanding issues could have been addressed by way of further information or indeed at a pre-planning level, if this had occurred. However, upon detailed review of the file, I consider that in view of the prevalent reason for refusal, the planning authority adopted the correct approach, as per the Development Management Guidelines (2007), wherein it is stated that *'Requests for further information under Article 33 on one aspect of a proposal should not be sought where there is a fundamental objection to the proposed development on other grounds; applicants should not have to suffer unnecessary delay or expense if a refusal is likely.* It is apparent that the planning authority did not place undue additional expense on the applicant, in requesting further information, when the fundamental issue of the proposed development being considered to be premature pending the adoption of a local area plan for the area, was an overriding issue, for the planning authority, which is considered to be reasonable.
- 6.32. Human Health
- 6.33. It is apparent that the application documentation did not include the required level of detail on the removal of underground storage tanks relating to the previous petrol station use on site, which is in situ on site and the second reason for refusal related to this issue. I note that a report from the Environment, Climate Action and Travel Department required a Construction and Demolition Resource Waste Management Plan (RWMP) as set out in the *Best Practice Guidelines for the Preparation of Resource Waste Management Plans for C&D Projects (2021).*
- 6.34. I note that the HAS – Health & Safety Authority did not advise against the granting of planning permission for the proposed development and directed the planning authority to advice on its website.
- 6.35. I consider that this issue could have been addressed by way of further information and I am of the mindset that the planning authority adopted a similar approach to this issue as per the Traffic Issues assessment above, see para 7.31. In light of the substantive reason for refusal as per my recommendation, I do not recommend that permission be refused on this basis. However, given the sensitivity of the decommissioning works, proximate to Broadmeadow River, this will be considered under Appropriate Assessment below.

6.36. Other Issues

The Water Services Department of Fingal County Council and the planners report reasonably considers that under no circumstances should surface/storm water systems mix with foul water systems. The appellant accepts that there was clearly a typo submitted under the original engineering report, but that upon examination of the full engineering report it is obvious that a separate drainage system was proposed for the site. The appeal submission includes a revised civil engineering report and draws reference to drawing number 22099 TNT XX XX DR C 92001, which clearly displays no mixing of surface water and the combined sewer.

It is considered that the details submitted are satisfactory and further copper fastening of such details could be achieved by way of condition of a permission.

Given the substantive recommended reason for refusal, in the instant appeal, I do not recommend that permission be refused on this basis.

6.37. It is noted that a Tree and Hedgerow Survey, Arboriculture Impact Statement and Tree Protection Plan to be prepared by a suitably qualified landscape professional was required under the Parks and Green Infrastructure Divisions report. These details could be addressed by way of condition of permission. In light of the substantive recommended reason for refusal, I do not consider that this issue should be used as a basis for refusal of planning permission.

6.38. A Flood Risk Assessment was prepared and submitted under the planning application. The Water Services Report concluded that the proposed development to be highly vulnerable but located in its entirety within Flood Zone C. Therefore, Water Services had no objection to the proposed development.

6.39. Regarding Part V, a validation letter was issued to the applicant. If permission is granted a condition requiring the developer to liaise with the Housing Dept, with respect of an agreement to satisfy the Part V obligation under the Planning and Development Act 2000 (as amended) is recommended.

6.40. Appropriate Assessment

Stage 1 - Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

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

A screening report for Appropriate Assessment and Appropriate Assessment was not submitted with this appeal case or with the application.

The planning authority recommended that screening report should be undertaken to determine whether or not the development is likely to have direct, indirect or in combination impacts on the habitats/species for which the SAC and SPA are designated.

Screening for Appropriate Assessment - Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site. The Broadmeadow River is a river positioned c.130 metres north of the site boundary, which is a tributary to the Malahide Estuary SPA (Site Code 004025) and Malahide Estuary SAC (Site Code 000205). The distance from the said river to point of contact with the said European sites is c. 6.5 km. The direction of groundwater flow in the area is from south to north towards the Broadmeadow River, (as per data published on GSI website) before it turns to flow from a west to southeast direction, following the river water flow towards the Broadmeadow estuary. Therefore, it needs to be determined if the development either directly or indirectly is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

The development is described at Section 2 of this Report. In summary, permission is sought for the demolition of existing disused garage canopy, decommissioning of underground fuel tanks and equipment, alterations to site entrance, new site access road and the construction of 6 No two storey detached houses and ancillary works.

Submissions and Observations

The submissions from the appellant, applicant and Planning Authority are summarised at Section 6 of my Report.

European Sites

The site is not located within or adjacent to any designated European site.

The Malahide Estuary (Also known as Swords Estuary) SPA (Site Code 004025) and Malahide Estuary SAC (Site Code 000205) are positioned 6.5 km southeast of the site. The Broadmeadow River situated 130 metres north of the site flows directly to The Malahide Estuary (European Site Codes 004025 and 000205).

There are other European sites within a 15km search zone, but I am satisfied that there is no possibility of significant effects arising other than for those European sites in the vicinity of the subject site.

Code	Name	Distance	Screening Conclusion
(Site Code 004025)	Malahide Estuary SPA	6.5 km	Screened in. Possibility of indirect hydrological connection via Broad Meadow River, 130 m. north of site, groundwater flow direction and precautionary principle regarding decommissioning of fuel storage tanks.
(Site Code 000205)	Malahide Estuary SAC	6.5 km	Screened in. Possibility of indirect hydrological connection via Broad Meadow River, 130 m. metres north of site, ground water flow direction and precautionary principle regarding decommissioning of fuel storage tanks.

The qualifying interests of the Malahide Estuary SPA (Site Code 004025) include the following:

1. A005 Great Crested Grebe *Podiceps cristatus*
2. A046 Brent Goose *Branta bernicla hrota*
3. A048 Shelduck *Tadorna tadorna*
4. A054 Pintail *Anas acuta*
5. A067 Goldeneye *Bucephala clangula*
6. A069 Red-breasted Merganser *Mergus serrator*
7. A130 Oystercatcher *Haematopus ostralegus*
8. A140 Golden Plover *Pluvialis apricaria*
9. A141 Grey Plover *Pluvialis squatarola*
10. A143 Knot *Calidris canutus*
11. A149 Dunlin *Calidris alpina alpina*
12. A156 Black-tailed Godwit *Limosa limosa*
13. A157 Bar-tailed Godwit *Limosa lapponica*
14. A162 Redshank *Tringa totanus*

15. A999 Wetlands

The Conservation Objectives for the Malahide Estuary SPA (Site Code 004025) is to restore and maintain favourable conservation conditions for its qualifying interests.

The qualifying interests of the Malahide Estuary SAC (Site Code 000205) include the following:

1. 1140 Mudflats and sandflats not covered by seawater at low tide
2. 1310 Salicornia and other annuals colonising mud and sand
3. 1320 Spartina swards (*Spartinion maritimae*)
4. 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
5. 1410 Mediterranean salt meadows (*Juncetalia maritimi*)
6. 2120 Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
7. 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*

The Conservation Objectives for the Malahide Estuary SAC (Site Code 000205) is to restore and maintain favourable conservation conditions for its qualifying interests.

Evaluation of potential significant effects

The development does not give rise to any direct effects on the European sites, in terms of habitat loss or fragmentation.

There is potential for indirect hydrological connection between the subject site and European sites.

Regarding the potential for indirect effects associated with the Broad Meadow River 130 metres to the north of the site and the direction of ground water flow in the general direction of said river, the construction phase including the decommissioning of fuel tanks may give rise to the potential for run-off containing suspended solid and/or pollutant content.

Regarding the said river, I am satisfied that it cannot be concluded that there is no likelihood of material being discharged to waters within the European sites. I am thus satisfied that the issue cannot be excluded at this stage.

For the operational phase, a detailed surface water drainage system is proposed. This incorporates a SUDS drainage system. A separate foul water system is proposed. It can be concluded at this stage that there is no likelihood of material being discharged to waters within the European sites during the operational phase. I am thus satisfied that the issue can be excluded at this stage.

With regard to cumulative impacts, given the existing and permitted development in the general area and the geographic positioning of the Broadwater River, which flows through Rowlestown and which is located 130 metres north of the site and which is a direct tributary of the above European sites, it is important to assess cumulative impacts. I am satisfied that cumulative impacts cannot be excluded at this stage.

Screening Determination

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 may be likely to give rise to significant effects on European Site Nos. 004025 and 000205, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.

- 6.41. It is considered that a NIS is required and as there is no such document on file. It is considered that planning permission should be refused on this basis also.
- 6.42. It is acknowledged that the appellant has submitted that a planning application in proximity to the site did not require AA, F18A/0522 where the planning authority stated that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European sites in the vicinity. However, it is considered that a significant body of case law has

evolved in the intervening time period and given the site-specific context/characteristics of the appeal site, it is not considered that this is a 'like with like' comparison/precedent.

7.0 Recommendation

7.1. I recommend that planning permission be refused.

8.0 Reasons and Considerations

1. The proposed development would be contrary to the zoning objective for the area, 'RV' – Rural Village, as set out in the Fingal County Development Plan 2023-2029, which requires that an approved land use plan be in place for the rural village of Rowlestown. The proposed development would be premature, pending the making of an approved land use plan, would conflict with the zoning objective for the area, as set out in the development plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development is in close proximity to the Broadmeadow River, a tributary of European Sites 004025 and 000205. In the absence of a Natura Impact Statement, including demonstration that mitigation for the construction phase will adequately treat/intercept suspended solids and pollutants and that surface water discharges from the site will not affect water quality and/or site integrity of the European sites and on the basis of the information provided with the application and appeal, and in light of the Stage 1 Appropriate Assessment Screening undertaken, the Board cannot be satisfied that the development, individually, or in combination with other plans or projects, would not be likely to have a significant effect on European Sites 004025 and 000205, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

'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.'

Aisling Dineen
Planning Inspector
05 December 2023