



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319332-24

<b>Development</b>	Construction of 31 residential units
<b>Location</b>	Killegland, Ashbourne, Co. Meath.
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	211037
<b>Applicant(s)</b>	Killegland Estates Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Parties
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. Residents of Garden City</li><li>2. Eimear &amp; Bryan South</li></ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Anne Moylan</li><li>2. Residents of Byrne View</li><li>3. Ciaran Donnelly for Ashbourne Public Group Greenspaces</li><li>4. Emlyn &amp; Niamh Cardiff</li><li>5. Olive &amp; Garrick Brennan</li></ol>

6. Paul & Gemma Gough
7. Alan & Karyn Gorman
8. Wibke Persicke & Luciano  
Sinagoga

**Date of Site Inspection**

21/08/2024

**Inspector**

Paula Hanlon

## **1.0 Introduction**

I note the Order of the High Court on this file. Therein it is stated: “IT IS ORDERED that the court doth remit the matter to the Respondent to the point in time immediately before this Honourable Court granted a stay on the further processing of the appeal bearing reference ABP-311978-21 on 25 May 2022, which was continued on 19 December 2022 together with a direction that any step taken by the Respondent in breach of the stay being expunged and removed from the Respondent’s file bearing reference ABP-311978-21, including any purported Inspector’s Report, Board Direction and Board Order previously made”.

This appeal case has been reactivated under a new case number, ABP-319332-24. I note that the Board, having regard to the High Court Order, the quashing of the previous decision (ABP-311978-21), and the passage of time, invited all parties to the appeal to make any further general comments submissions/observations that they may have on the planning application.

## **2.0 Site Location and Description**

The site subject to this appeal (hereafter referred to as ‘the site’) is located within an established urban area in Killegland, Ashbourne, Co. Meath. The site (stated area 0.84ha) which currently lies undeveloped, adjoins Churchfields housing scheme along its western boundary, it is bound by Killegland Old Cemetery contained within a wider POS area to the north, the rear gardens of house numbers 25-45 Bourne View to the east and agricultural lands to the south. The immediate area is typified as predominantly residential.

The site adjoins an internal cul-de-sac road with associated footpaths, grass verges, tree planting and street lighting within Churchfields to the west. A row of two-storey semi-detached houses (numbers 206 - 217) front onto the western side of this road.

It is located within the zone of notification for a complex of national monuments, with these monuments and a Protected Structures (Ref. No. RPS ID 91456) located on the adjoining lands to the north of the site.

The topography of the site is broadly flat, low-lying lands. Temporary fencing along the western and northern perimeter secures the site and currently restricts access.

### 3.0 Proposed Development

3.1. The construction of 31 residential units, ranging in size from 80m<sup>2</sup> to 124.6m<sup>2</sup> including:

- 19(no) 2-storey houses [8 x 3-bed & 11 x 4-bed]
- 12 units within a 3-storey apartment block [6(no) 2-bed ground floor apartments and 6(no) 3-bed maisonettes]
- Associated open space area, predominantly located along the western side of proposed apartment block which would front onto Churchfields, with an associated strip of open space along the site's northern boundary (within the NW quadrant of the site).

The external finishes proposed for the apartment block and houses within this scheme include a mix of render and select brickwork.

The proposed access is off an established cul-de-sac estate road within Churchfields, west of the site.

The application also provides for other associated works including 62 car parking spaces, bicycle parking, electrical substation, boundary treatment and landscaping.

3.2. Further Information lodged 23/09/2021 and 28/09/2021 provides significant changes to the overall site layout and unit mix from that which was initially sought in this application. The revised site layout includes the re-positioning of the apartment block (Block A), onto an east-west axis at the northwestern area of the site, reconfigured and extended public open space provision contained within two areas of the site (i.e. one within a central area and one which extends across the site's northern area). The total number of residential units proposed remains at 31 units, as per the initial application. There were also significant revisions made to the unit types. The revised unit typologies comprise of 19(no) two-storey houses and 12(no) apartment/maisonette units, ranging in size from 52.9m<sup>2</sup> to 124.6m<sup>2</sup> including:

- 19(no) 2-storey houses [12 x 3-bed & 7 x 4-bed]
- 12 units within a 3-storey apartment block [6(no) 1-bed apartments & 6(no) 2-bed maisonettes].

3.3. The application was accompanied by the following documentation of note:

- Planning Statement
- Architectural Design Statement
- Housing Quality Assessment
  
- Archaeological Assessment (updated on receipt of further information)
- Engineering Assessment and Drainage Design Report
- Public Lighting Report (updated on receipt of further information)
- Drainage and Design Report (submitted at further information stage).
  
- Ecological Impact Assessment (submitted at further information stage)
- Invasive Species Management Plan
- Landscape Rationale (updated on receipt of further information)
- Arboricultural Impact Assessment
- AA Screening Report
  
- Part V Validation Letter (Meath County Council)
- Deed of Easement.

## **4.0 Planning Authority Decision**

### **4.1. Further Information**

The Planning Authority requested further information on 22 July 2021 on the following:

- Revised site layout, affording sufficient regard to the importance of the adjacent recorded Protected Structure and Monuments.  
Location of balconies to be further considered.
- Additional boundary treatment and landscaping details.
- Revised details on road & parking requirements (width/surfacing/EV charging).
- Submit an Archaeological Impact Assessment
- Submit an EcIA, Mammal Survey and Invasive Species Management Plan/Eradication Programme.

## **4.2. Decision**

By Order dated 22 October 2021, Meath County Council (MCC) issued a notification of decision to grant planning permission, subject to 24 conditions which included:

- Condition 6: Footpath Extension (NW corner)
- Condition 7: Archaeological Excavation & Monitoring
- Condition 10: Revised Boundary Treatment
- Condition 19: Requirements on Surface Water Drainage.

## **4.3. Planning Authority Reports**

### **4.3.1. Planning Report(s)**

Two Planning Reports are attached to the file, both of which examined the proposed development in accordance with the previous CDP 2013-2019 which was enforce at the time.

The initial planning report dated 22 July 2021 refers to the site's 'A2' residential zoning at the time and considers the scheme to be broadly in accordance with the Urban Design Manual, CDP and Apartment Guidelines. Further information was sought on a number of matters, which are summarised within Section 4.1 above.

The second planning report completed 19 October 2021 forms the basis for the decision by MCC to grant permission. In making the recommendation to grant permission, the Planner's Report outlined that the revised details were on balance, acceptable, given the site's zoning and wider national policy objectives on housing, and it incorporated the recommendation of the National Monuments Service in regard to archaeology.

### **4.3.2. Other Technical Reports**

- Architectural Conservation Officer (20/07/2021): Further Information sought on design & layout.
- Heritage Officer (21/07/2021 & 18/10/2021): No Objection [Following receipt of Further Information]

- Water Services (25/06/2021 & 29/09/2021): Conditions Recommended on Surface Water Treatment & Disposal.
- Transportation (09/07/2021 & 19/10/2021): No Objection subject to condition.
- Transportation - Public Lighting (28/06/2021): No Objection subject to condition.
- Housing: (23/06/2021): No Objection.
- Fire Officer (01/07/2021): Recommendations given in accordance with Building Regulations on Fire Safety.

#### 4.3.3. Conditions

I am generally satisfied that the conditions attached by the PA in its decision to grant permission insofar as they relate to residential development are standard conditions. Specific conditions including the submission of an Invasive Species Management Plan (Condition 5), footpath provision (Condition 6), Archaeological Excavation & Monitoring (Condition 7), Revised Boundary Treatment (Condition 10), Surface water requirements (Condition 19) and a contribution to the PA for monitoring of construction phases (Condition 24) are attached to the PA's decision. I will consider the appropriateness of these conditions within Section 7 of this report.

#### 4.4. Prescribed Bodies

- Department of Housing, Local Government and Heritage (DHLGH) (01/07/2021 & 06/10/2021): Recommends a condition on Archaeological Monitoring.
- Uisce Eireann (30/06/2021 & undated report, received by the PA 01/10/2021): No Objection subject to conditions associated with connection agreement (foul sewer) and compliance with submitted details (water supply).

#### 4.5. Third Party Observations

The PA received 35 (no) third-party submissions during the course of their determination, all of which were opposed to the proposed development. The submissions made were from residents in the area, residents' groups and local

community groups/society. The matters raised are reflected in the third party appeal submissions and observations received (summarised in Section 6.1 and Section 6.4 below).

#### 4.6. Planning History

##### Subject Site

- There were no previous planning application(s) made on this site.
- ABP-310068-21 (Pl. Ref. VS-MH-0030): Planning appeal on Vacant Site Levy demand for the years 2020 & 2021 – determined to be null.

##### Adjoining Lands (Churchfields)

- Pl. Ref. DA 30311: Permission was granted in 2004 for a temporary wastewater treatment plant, pumping station and rising main subject to conditions.
- Pl. Ref. DA40043: (Churchfields Development - Parent Permission) Permission was granted in 2005 for a residential development of 468(no) units consisting of a mix of houses and apartments, creche (434m<sup>2</sup>) and associated works. An Environmental Impact Statement accompanied this application. An extension of duration of planning permission was approved in 2010. The application which comprised phases 1 to 3 along with Pl. Ref. DA 801861 (phase 4) 162(no) units & creche was modified a number of times over a number of years, under planning reference numbers DA900444, DA900515, DA900872, AA141073 and AA170488, with the most recent application made in 2017.

### 5.0 Policy Context

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

- 5.1.1. The Meath County Development Plan 2021-2027 (CDP) which came into effect 3 November 2021 (and post the decision of the PA) is the operative Development Plan.
- 5.1.2. Ashbourne is designated as a 'Self-Sustaining Growth Town' within the core strategy and settlement strategy for Co. Meath. Its projected population is 15,879 up to 2027 which constitutes a growth of 3,200 persons over its population in 2016. The zoning of land includes 31.48ha residential, 218.27ha existing residential and 18.62ha mix of



uses, all of which are included within the Council's Core Strategy and projections on population growth and household distribution upto 2020. Table 2.12, the 'Core Strategy Table', does not include G1 Community Infrastructure zoned lands within its population projections and household allocation for the County.

- 5.1.3. A Written Statement and Land use Zoning Map for Ashbourne is contained within the CDP. The site is zoned G1 Community Infrastructure with the land use zoning objective 'To provide for necessary community, social, and educational facilities'.

'Residential' is not listed as a permitted use, however it is listed as a use which is 'open for consideration' on G1 zoned lands (Refer Section 11.14.6 Land Use Zoning Categories, Chapter 11, CDP).

Section 11.14.4 states that an 'Open for Consideration Use' 'is one which may be permitted where the Council is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on any permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area'.

- 5.1.4. Adjoining lands, north and south of the site are zoned 'F1 - Open Space'. The lands to the south are identified on the land use zoning map and within Section 11.15 of the CDP as a 'masterplan' area for a future public park (Reference Number MP21).

- 5.1.5. The site is within Landscape Character Area 10 - The Ward Lowlands which is classified as being of 'low value'. Multi-house developments are considered as a likely indicative type of development within this landscape character area.

- 5.1.6. The following Chapters are relevant in the consideration of this appeal:

Volume 1 - Written Statement: Chapter 2 Core Strategy, Chapter 3 Settlement & Housing Strategy, Chapter 6 Infrastructure Strategy, Chapter 7 Community Building Strategy, Chapter 8 Cultural & Natural Heritage Strategy and Chapter 11 Development Management Standards & Land use Zoning Objectives.

Volume 2 - Written Statement & Maps for Settlements - Ashbourne.

5.1.7. Policy, Objectives and Sections of particular relevance include:

CS OBJ 12: To ensure that all settlements, in as far as practicable, develop in a self-sufficient manner with population growth occurring in tandem with the provision of physical and social infrastructure.

CS OBJ 3: To ensure the implementation of the population, housing growth and household allocation set out in the Core Strategy and Settlement Strategy, in so far as practicable...

SH OBJ 2: (Ensure the implementation of the population and housing growth allocations set out in the Core Strategy and Settlement Strategy).

SH POL 13: To require that all new residential developments accord with the standards set out in the Development Management Standards and Land Use Zoning Objectives set out in Chapter 11 of this Plan, in so far as is practicable.

SOC OBJ 12: Prioritise the delivery of town parks at regional scale, in Drogheda Southern Environs, Dunboyne and Ashbourne.

SOC OBJ 13: In respect of residential development, in all cases the development site area cannot include lands zoned FI Open Space, G1 Community Infrastructure and H1 High Amenity (i.e. the open space requirements shall be provided for within the development site area.)

HER OBJ 2: To ensure that development in the vicinity of a Recorded Monument or Zone of Archaeological Potential is sited and designed in a sensitive manner with a view to minimal detracting from the monument or its setting.

HER OBJ 3: To protect important archaeological landscapes from inappropriate development.

HER POL 16: To protect the setting of Protected Structures and to refuse permission for development within the curtilage or adjacent to a protected structure which would

adversely impact on the character and special interest of the structure, where appropriate.

DM OBJ 26: Public open space shall be provided for residential development at a minimum rate of 15% of total site area. In all cases lands zoned F1 Open Space, G1 Community Infrastructure and H1 High Amenity cannot be included as part of the 15%. Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with this requirement.

5.1.8. Other policy, objectives and sections of relevance include:

SH POL 1: (settlements to develop in a self-sufficient manner); SH POL 2 & CS OBJ 4: (Consolidation & compact urban forms); SH POL 4: (Social Integration); SH OBJ 14 & 16 (Support & address the need for social housing delivery); SH POL 7 (Sustainable Communities); SH POL 12 (Innovation in architectural design); MOV OBJ 25 (EV Charging); INF OBJ 18: (Separation of drainage networks); SOC POL 2&3: (Community Infrastructure); HER POL 1 (Protection of SMR monuments & places and archaeological objects); HER POL 27 & 35: (Biodiversity); HER POL 44: (Invasive alien species); Section 11.5.16: (Light & Overshadowing) and Section 11.5.7 (Separation Distances).

Chapter 11, Section 5 – Residential Development Standards including DM POL 6 & OBJ 39 (unit mix); DM OBJ 22 (connectivity) DM OBJ 94 (EV charging) & DM OBJ 93 (car parking requirements); Table 11.2 Car Parking, Table 11.4 Bicycle Parking.

**5.2. Regional Spatial and Economic Strategy for Eastern & Midland Region (RSES)**

Section 4.6 of the RSES outlines that self-sustaining towns are towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery.

It identifies that Ashbourne is one of a number of settlements which experienced rapid commuter-focused residential expansion (>32%) in the 10 years preceding the adoption of the RSES, without equivalent increases in jobs (i.e. settlements characterised by a low ratio of jobs to resident workforce) and services. It states that population growth shall be at a rate that seeks to achieve a balancing effect, focused

on consolidation and inclusion of policies in relation to improvements in services and employment provision, to be set out in the core strategy of the CDP.

### **5.3. Project Ireland 2040 – National Planning Framework (NPF)**

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 (NPO 3a).

Key future planning & development and place-making policy priorities for the Eastern and Midland Region provides more of an emphasis on consolidating the development of places that grew rapidly in the past decade or so with large scale commuter driven housing development, with a particular focus on addressing local community and amenity facility provision.

### **5.4. Climate Action Plan 2023 (CAP 2023)**

The CAP implements carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve emissions by 2030 and reach net zero no later than 2050. The Annex of Actions to CAP23 includes an action to prepare sustainable settlement guidelines and to review planning guidelines to ensure a graduated approach in relation to the provision of car parking.

### **5.5. National Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the PA, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlement Guidelines for PA's (2024).
- Sustainable Urban Housing – Design Standards for New Apartments Guidelines for Planning Authorities (2022).

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024)

The strategy for Key Towns and Large Towns (5,000+ population) is to support consolidation within and close to the existing built-up footprint. This site is within an urban neighbourhood of Ashbourne (a key town) as defined within Table 3.5 of these Guidelines, and residential densities in the range 40dph to 100dph (net) to be generally applied.

#### SPPR 1 - Separation Distances

...Separation distances below 16m may be considered acceptable in circumstances.

#### SPPR 2 - Minimum Private Open Space

Minimum Standards applied: 3-bed house (40m<sup>2</sup>), 4-bed house (50m<sup>2</sup>).

#### SPPR 3 - Car Parking

(iii) In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where justified is 2(no.) spaces per dwelling (including visitor parking).

#### Policy and Objective 4.1 [DMURS]

That PA's implement the principles, approaches and standards set out in DMURS (including updates) in carrying out their functions under the PDA (as amended) and as part of an integrated approach to quality urban design and placemaking.

#### Policy and Objective 5.1 [ Public Open Space]

The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than 15% of net site area except in exceptional circumstances and the PA may seek a financial contribution in lieu of provision.

Sustainable Urban Housing - Design Standards for New Apartments Guidelines for Planning Authorities (2022).

SPPR 1: Housing developments may include up to 50% one-bedroom units and there shall be no minimum requirement for apartments with three or more bedrooms.

Other relevant sections in the guidelines include Appendix 1: Required Minimum Floor Areas and Standards; Section 3.40: (safety and security) and Section 4.10: (communal amenity space).

## **5.6. Natural Heritage Designations**

The site is not located within any designated Natura 2000 site or Natural Heritage Area/pNHA with Malahide Estuary SAC (Site Code 000205) (and pNHA) and Malahide Estuary SPA (004025) being the nearest, located over 13.6km SE of the site. Rogerstown Estuary SPA (004015) and Rogerstown Estuary SAC (000208) (and pNHA) being the next nearest European sites are located over 14km east of the site.

## **5.7. EIA Screening**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

## **6.0 The Appeal (Third Parties)**

Two number third-party appeals have been received, both of which are made from residents in the area, notably Residents of Garden City and Eimear & Bryan South. The Residents of Garden City outline several issues of concern within their appeal submission, and the appeal submission of Eimear & Byran South is grounded on archaeological matters. A summary of all matters raised within the submissions received is set out below.

### **6.1. Grounds of Appeal**

- The proposed development will overbear and impact on archaeology,
- Insufficient details on archaeology and there is a lack of clarity on judgements made on archaeology in this case.
- Capacity of infrastructure, with reliance on infrastructure designed for Churchfields.

- An EIA should have been carried out.
- The site is now zoned 'Community Infrastructure', with other sites zoned and more suitable for residential development in the area.
- Inadequate site notice and inadequacies in submitted documentation.
- Presence of Japanese knotweed and lack of consultation on its management.
- The site was envisioned for community use by the benefactor of these lands to previous owner (St. Finian's Trust).
- Concerns on the quality of proposed green space and its future amenity use.
- Concerns on apartment block's height relative to adjoining development.
- Proposal is not consistent with DMURS.
- The need for a park and its entrance point within this site is highlighted.

## 6.2. Applicant Response

The applicant in their response to the appeal submission on 14 December 2021, outlined the following:

- Design & layout is appropriate to the site's surrounding context and infill nature.
- A High Court stay is placed on the coming into operation of the site's zoning.
- It is a natural extension of Churchfields, supported by policy on consolidating residential development and its inclusion on the Vacant Site Register shows the Council's encouragement of the site's residential development.
- There is no legal constraint to developing these lands for residential use.
- It is suitably zoned & accessible and there is a critical housing shortage.
- The need for a park is of no relevance to the assessment of this site.
- There is no direct impact on any recorded monument.
- The DHLGH endorsed Archaeological Impact Assessment recommendations.
- The need for EIAR is disputed.

- The EclA confirms that a bat survey was carried out.
- There is no requirement to engage on the management plan for invasive species, supporting documentation confirms its on-going treatment.
- Justification given on the siting & height of apartment block and density.
- Uisce Eireann confirmed services capacity
- A DMURS Statement of Compliance is attached to the application.
- Drainage details were provided on the site's gradient and drainage network design (+20% climate change factor).
- All required legal consents in making this application are in place.
- The suitability of proposed POS is outlined.
- A material contravention is justified given that the proposal contributes to Government Policy (Rebuilding Ireland) in the delivery of housing which is of strategic or national importance.

### 6.3. **Planning Authority Response**

The PA submitted a response to the appeal made, dated 16/12/2021, requesting that its decision to grant permission in accordance with attached conditions be upheld. It considered that the issues raised within the appeal submissions were substantially addressed within the Planning Reports dated 22/07/2021 & 06/10/2021. Within this earlier submission, the PA outlines the following:

- Condition 7 on archaeology was attached as per the response received by the National Monuments Service
- The proposal complied with adopted policy on the date of its decision.
- It would not seriously injure visual or residential amenities
- Significant effects on the environment or ecology are unlikely.

### 6.4. **Observations**

8(no) observations were received, five of which were made from concerned residents in the area, two were from local residents' groups with attached signatories from



concerned residents, and one from a concerned local group. A summary of matters raised within the submitted observations is as follows:

- Road Infrastructure Capacity Concerns
- No detailed compensating measures suggested in maximising shared road space and traffic safety.
- Impacts on the privacy of adjoining residents (Churchfields/ Bourne View).
- Issue of regular flooding in Churchfields Estate.
- Capacity issues raised on surface water drainage.
- It is envisioned that the subject lands will be an entry to a new public park.
- An Environmental Impact Statement is required.
- Inadequacies with Site notice.
- Issue raised on existing unauthorised fencing which restricts access.
- Inadequacies within submitted drawings
- Screening for Appropriate Assessment Report is insufficient.
- No evidence given that the existing serving private sewage treatment plant operates to stated EU standards.
- A number of design and layout issues are raised.
- Impacts on the setting (overbear) of adjacent national monuments.
- Impacts of car parking on climate/environment/traffic and overspill concerns.
- A clearly defined path to restoring the Broadmeadow River's water quality is required prior to granting the proposed development.
- A number of shortfalls (including procedural) are raised on archaeology.
- There is no reasoned case made for any imperative reason to interfere with the archaeology on the site and the setting of the national monuments.
- A number of procedural matters are raised on public consultation, required legal consents and the site's inclusion on the Vacant Site's Register.
- Concerns on biodiversity and spread of Japanese Knotweed.

- The proposal does nothing to improve local services/ job opportunities.
- Insufficient detail on materials (durability/maintenance/carbon efficiencies).
- Concerns on additional noise and light.
- Concerns on construction site access and health & safety.

## 7.0 Section 131 Response(s)

7.1. Following a High Court Decision in relation to the Board's original decision under case reference number ABP-311978-21, the Board on the 05 April 2024, invited the parties to make any further general submissions/observations on the application, on or before 22 April 2024. A response made by the First Party only was received in response to the Board's Section 131 request at this time.

The first party's submission received on 19 April 2024 is summarised as follows:

- The applicant would welcome a positive outcome based on either of the two site layouts submitted (i.e. the initial site layout or revised site layout submitted at further information stage).
- The PA's submission response to the appeal is very positive and confirms its acceptance of residential development on G1 zoned lands.
- There is no contravention to the site's G1 zoning objective as residential use is 'Open for Consideration'.
- A revised proposal to increase the quantum of social housing units is put forward in line with the intention of the "community infrastructure" objective.
- Conflicts within the CDP are noted regarding the zoning matrix on G1 zoned lands and objectives SOC OBJ 13 & DM OBJ 26.
- Sufficient POS is proposed.
- There is no reason to constrain the site's development, and it will not compromise the delivery of a future public park.
- Required separation distances are exceeded.

- The proposal complies with all Development Management Standards.
- A rationale on the appropriateness of the site's setting, proximate to a protected structure/Recorded Monuments is given.
- The National Monuments Service accepted the conclusions of the updated Archaeological Assessment.
- The site is appropriate from a flood risk perspective.
- No ecological concerns, subject to implementing EclA's mitigation measures.
- Design and layout are considered to be appropriate for a number of reasons.

## 7.2. Further Responses (Section 131)

Section 131 was invoked following receipt of the applicant's response submission, dated 19 April 2024, which was circulated to all parties for comment on or before 27 May 2024. 3(no) responses were made in response to the applicant's submission at this time, as follows:

- Residents of Garden City (Appellant)
- Ms. Anne Moylan (Observer)
- Planning Authority.

A summary of the matters raised within the submissions made are set out below.

### 7.2.1. Third Party Response (Appellant - Residents of Garden City)

The Residents of Garden City, being an appellant in this case commented on the applicant's response on the 24 May 2024 as follows:

- The G1 zoning now attached to the site was upheld by the Supreme Court.
- Proposition to increase the quantum of social housing units, in accordance with the site's zoning is flawed for a number of stated reasons.
- Integrating monuments into parks makes sense in terms of proper planning.
- The CDP should reflect intention for social housing on the site, if it was the intention of the zoning.

- The materiality of the proposed use relative to the site's zoning is outlined.
- The LA's interest in the development of this site is queried.

#### 7.2.2. Third Party Response (Observer - Ms. Anne Moylan).

Ms. Anne Moylan, being an observer in this case made a further submission on the 27 May 2024. The content of this submission and all matters raised are consistent with those made by the appellant on 24 May 2024 and as summarised within section 7.2.1 above. For the purposes of avoiding repetition, I refer the Board to Section 7.2.1 in this regard.

#### 7.2.3. Planning Authority Response

The PA commented on the applicant's response on the 27 May 2024 as follows:

- The proposal accorded with the site's zoning & planning policy on the date of the PA's decision.
- The site is now zoned G1 Community Infrastructure.
- Conventional or Social Housing are not a permitted or open for consideration use on the site's existing land use zoning as per the zoning matrix. Sheltered Housing is an open for consideration use on these lands.
- Objective SOC OBJ 13 relates solely to POS provision and does not preclude the provision of sheltered housing on G1 zoned lands.
- Objective DM OBJ 26 relates to conventional residential developments and not sheltered housing.

## 8.0 **Assessment**

### 8.1. **Context**

8.1.1. There has been a change in the Development Plan since Meath County Council issued its decision (22 October 2021) on the proposed development. The Meath County Development Plan (CDP) which came into effect 3 November 2021 is now the

operative plan. The submitted appeals are therefore required to be considered in accordance with the policies, objectives and standards contained within the current operative plan. Furthermore, the Sustainable Residential Development and Compact Settlement Guidelines (January 2024) are relevant in this assessment, having replaced the Sustainable Residential Development in Urban Areas Guidelines (2009) and accompanying Urban Design Manual which are now revoked.

Having examined the application details and all other documentation on file, including the submissions and observations received in relation to this case, the reports of the local authority, having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this third-party appeal case to be considered are as follows:

- Principle of Residential Development
- Design and Residential Amenities
- Archaeology and Protected Structure
- Receiving Environment
- Other Procedural Matters.

## **8.2. Principle of Residential Development**

### **8.2.1. Zoning**

In accordance with the Meath County Development Plan 2013-2019 which was enforce at the time of the decision by MCC (22/10/21), this site was zoned A2 'New Residential' with the objective 'to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy'. While the applicant in a submission dated 14 December 2021 makes reference to the site's previous zoning under the CDP 2013-2019 and the report of the Chief Executive in the making of the current CDP 2021-2027, I submit that a development plan cannot be interpreted by reference to an earlier development plan or documents leading to the making of

that plan. The interpreting of a development plan must be as it would be interpreted by a reasonably intelligent informed lay person.

The site is now zoned G1 Community Infrastructure with the objective 'to provide for necessary community, social, and educational facilities' in the current operative plan. There are conflicting views within each of the parties associated with this case about the compatibility of 'residential' as being an 'open for consideration' use on G1 zoned lands. In reviewing this matter in the context of the provisions of the CDP, I submit that it is clearly stated within the plan's Land Use Zoning Categories contained within Section 11.14.6 that 'residential' is a use which is 'open for consideration' on G1 zoned lands. Section 3.8.5 of the plan however, contradicts Section 11.14.6 insofar as it excludes G1 zoning as being applicable to the 'residential' category. Objective DM OBJ 26 also presents a conflict in terms of the compatibility of residential on G1 zoned lands in that it restricts the provision of POS associated with residential development in all cases, on G1 zoned lands. Objective SOC OBJ 13 provides further ambiguity as it provides that residential development, in all cases cannot include lands zoned G1, however it further provides that 'the open space requirements shall be provided for within the development site area'.

The PA's response to this appeal on 27 May 2024 provides further ambiguity as it states that conventional housing or social housing is not an 'open for consideration' use on the site's current land use zoning as per the zoning matrix. In my view, whilst it may not have been the intention that conventional or social housing be 'open for consideration' on G1 Community Infrastructure zoned lands, it is clearly set out within the Land Use Zoning Categories of the operative Development Plan (Section 11.14.6) that 'residential' is a use which is 'open for consideration' on G1 zoned lands. I therefore accept that the principle of the residential development as proposed is open for consideration.

Notwithstanding the above, the fact that residential use is included in the list of uses which are 'open for consideration' is not sufficient on its own to conclude that the proposed residential development is permissible. I submit that the Board must also consider other relevant policies, standards and requirements of the Development Plan before such a conclusion may be reached. Section 11.14.4 requires the proposal to

be compatible with the overall policies and objectives for the zone, have no undesirable effects on any permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. In my view, therefore, a reliance must also be placed on the site's land use zoning objective 'to provide for necessary community, social and educational facilities' in considering the development proposed.

I note that while the applicant in its appeal submission dated 19 April 2024 comments that the proposal does not constitute a material contravention to the CDP, it also proposes an increase in the overall quantum of social housing to 52% of the total number of residential units delivered on this site, stating that this would be further in line with the intention of the site's "community infrastructure" objective. Whilst 'sheltered housing' is differentiated from 'residential' under the CDP's land use zoning categories, there is no such differentiation provided in respect of social housing. In considering the details submitted relative to the provisions of the plan, I am of the view that the use, as 'residential' remains, whether or not it is comprised of conventional housing or social housing provision. In this context, it is my opinion that the proposed development which provides solely for residential use on lands which are zoned primarily for the provision of necessary community, social and educational facilities is not consistent with the overall land use objective of the site and would be contrary policy SH POL 13, which requires that all new residential development accords with the land use zoning objectives, in so far as is practicable. Therefore, I am of the view that the proposed residential development on this site should be refused.

#### 8.2.2. Compliance with the Core Strategy for Co. Meath

The subject lands have not been targeted for housing within the Council's core strategy in the current operative plan. The projected population growth and household allocation/distribution up to 2027, as set out within the County's core strategy for each respective settlement, including Ashbourne, is contained within Table 2.12 of the CDP. It includes lands zoned for residential use, existing residential & zoned lands for a mix of uses. The plan clarifies that infill/brownfield lands, which are also included within Table 2.12 (Core Strategy) apply only to lands that are zoned town centre, mixed-use and residential development. In light of this, given the site's G1 zoning, I am of the view that the proposed development would be contrary to the adopted Core Strategy

for the County and to objective CS OBJ 3 of the plan, 'to ensure the implementation of the population, housing growth & household allocation set out in the Core Strategy & Settlement Strategy, in so far as practicable..' and should therefore be refused.

#### 8.2.3. Potential Impact on Future Development of a Public Park

The adjoining lands (south) are zoned F1 'Open Space' and are identified as 'masterplan' lands for a future public park (Ref. No. MP21) within the land use zoning map for Ashbourne and Section 11.15 of the CDP. While the appeal site lies proximate to the lands associated with a potential future public park, it is outside of the identified masterplan area. Based on the information available, while the inclusion of the subject lands as part of a future public park/ancillary use may be desirable to third parties and somewhat merited, I am cognisant that the site has not been specifically identified as part of the master plan lands. The development of this site will not obstruct the delivery of a future pedestrian/vehicular access into the identified masterplan area, which are already served by an established vehicular access and associated footpaths at the end of an adjoining cul-de-sac road within Churchfields, adjoining the western boundary of this site. For this reason, I concur with the applicant that the development of the subject lands should not be constrained on the grounds that it may impact on the future delivery of a public park.

#### 8.3. **Site Layout, Design & Residential Amenities**

An Architectural Urban Design Statement submitted at initial application stage provides a rationale for the overall design and layout proposed in the context of the Urban Design Manual (2009), however I note that this statement was not updated to reflect the revised site plan submitted at further information stage.

I have examined both site plans submitted, notably at initial application stage and at further information stage. In the outset, I concur with the PA's considered approach that a revised layout and design was required at further information stage to ensure that any future development would effectively integrate with the setting of an adjoining protected structure/national monuments to the north of the site. I therefore do not



propose to revisit the planning merits of the initial site layout plan and accompanying plans and particulars submitted any further in this case, with the focus of my assessment based on the revised proposal submitted at further information stage and as approved by the PA.

#### 8.3.1. Pattern of Development

The function and form of the site's immediate area to the west and east is generally comprised of two-storey, semi-detached dwellings in linear form within Churchfields and Bourne View residential areas. I do not consider that the development of the subject site must adhere to the type of development on adjoining lands, however it must comply with normal planning standards. The proposed development is comprised of a mix of two storey houses, notably (1(no) detached, 10(no) semi-detached, 8(no) terraced houses) and a three-storey apartment block comprising 6(no) maisonettes above 6(no) apartments. I am generally satisfied that the mix of residential typologies and design of units (including roof profiles) proposed, which also allow for the potential for future flexibility and adaptability of houses to accommodate changing household circumstances within this scheme are appropriate in this urban location.

#### 8.3.2. Design & Layout

I am of the view that the proposed layout which provides back-to-back rear gardens with established houses in Bourne View is quite typical in an urban area and that it would visually enhance the eastern extent of the site, which is currently typified by the rear boundaries of established houses within Bourne View. I am not entirely satisfied however that the proposed streetscape onto Churchfields along the western extent of the site, including three-storey gable to the proposed apartment block (northern end) and two-storey gable end of detached dwelling (southern end), setback behind a proposed parkland railing and hedgerow along the site's boundary, provides an optimum urban design approach at this location. Notwithstanding, I am satisfied that it will not overbear on the character of the area or impact negatively on adjoining houses on the opposite side of the serving road in Churchfields and for this reason, I do not consider that it is so significant so as to constitute a reason to refuse permission in this case. While I acknowledge that existing mature hedging along the southern boundary will be retained as part of this development, I consider that the relationship and

compatibility of proposed house numbers 1-5 which back onto the lands identified for a potential public park requires further consideration. Due cognisance must also be afforded to the proposed layout and design in terms of its proximity to an adjoining historic landscape to the north, which I propose to consider separately within section 8.4.1 below in this report.

I have reviewed the internal configuration of proposed residential units and accompanying Housing Quality Assessment, and I am satisfied that the floor areas for apartments/maisonettes proposed are consistent with minimum required standards set out within Appendix 1 of the Apartment Guidelines (2022) and the standards contained within the CDP. I have concerns however regarding the proposed layout of the apartment block in that all ground floor apartments essentially turn their backs on the proposed northern POS area and adjoining protected structure/complex of national monuments. Furthermore, the Guidelines state that private amenity space should be located to optimise solar orientation, however, in this case, the orientation of the 6(no) 1-bed apartments, fails to optimise on solar orientation with all private terraces north facing at ground floor level. The proposal would also result in a sub-optimal arrangement for future occupiers within the proposed 6(no) ground floor apartments, given that access to the private terrace(s) at ground floor level is proposed via each respective unit's bedroom space. In my view, these concerns cannot be addressed by condition as significant amendments to the submitted site layout would be required, which in itself may pose further challenges on associated planning matters in this case.

### 8.3.3. Overshadowing and Overlooking

I acknowledge and generally accept that in an urban context and in accordance with guidelines, it must be borne in mind that nearly all structures will create areas of new shadow, and some degree of transient overshadowing of a space is to be expected. Whilst Section 11.5.16 of the CDP references that daylight and sunlight levels should, generally, be in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011), and any updates thereof, I note that the CDP does not contain a specific policy or standard in relation to the undertaking of a detailed technical assessment on daylight performance. The recently adopted Compact Guidelines are implicit in stating that such an assessment is not required in all cases and that a level of discretion may apply in this regard. In

this context, I have considered the content of the plans and particulars approved by the PA in relation to the potential for poor daylight performance in the case of both the residential houses & apartment block proposed and also in regard to potential impact(s) on neighbouring houses. I am of the view that there is good separation distance (i.e. greater than three times the height above the centre of the ground floor window of adjoining houses) in all cases, with the nearest houses (Nos. 206 - 208) a distance in excess of 26 metres. Therefore, I am satisfied that the need to undertake a detailed technical assessment in relation to daylight performance is not required in this instance. I am also satisfied that the proposed apartment block would provide acceptable levels of daylight provision, and that undue impact will not arise given the topography, siting, overall height of apartment block, orientation and separation distances within this scheme and adjoining development. Furthermore, I am satisfied that no undue overlooking issue would arise from the apartment block, given the 26m separation distance achieved with adjoining houses, coupled with its orientation and design approach, with the fenestration of the blocks western gable fronting onto Churchfields.

In regard to the proposed dwellings, I note that separation distances in excess of 27 metres would be achieved between the nearest proposed house (gable end) (No.1) and the nearest adjacent houses within Churchfields (Nos. 216 & 217) and in excess of 29 metres would be achieved between the nearest houses (Nos. 18 & 19) and the nearest adjacent houses within Bourne View (Nos. 43 & 45), which in all cases are above the required 22m separation distances standards outlined within objectives DM Obj 18 and DM Obj 19 of the plan in regard to overlooking. Given the extent of separation distances achieved, I am satisfied that perceived impacts (if any) arising from the proposed two-storey houses due to overshadowing will remain at imperceptible on adjoining residential amenities and that no undue overlooking would arise on residents within Churchfields & Bourne View, and that all adjoining residences will continue to receive adequate levels of sunlight.

#### 8.3.4. Public Open Space (POS)

There are two matters of particular relevance in regard to proposed POS provision in this case, notably: the proposed site layout & POS and secondly, the compatibility of POS for a residential development on G1 zoned lands.

In regard to the proposed site layout, the applicant proposes to provide 2(no) public open space areas, one of which is centrally located, south of the proposed apartment block and a smaller POS area is proposed along the site's northern boundary. The quantum of POS proposed at 21.1% net exceeds the maximum POS (net) stated within policy and objective 5.1 of the Compact Guidelines (2024), however it is consistent with the minimum quantum stated within DM OBJ 26 of the CDP. I am generally satisfied that the functional needs of future occupiers in terms of passive recreation and casual play would be appropriately accommodated within the proposed central POS area. I also note that the northern POS is designed to integrate with an adjoining circular buffer area surrounding the protected structure/complex of national monuments and while I acknowledge that it may experience some shade due to its orientation and proximity to the proposed apartment block, I do not consider that it is so significant to suggest that a refusal is warranted on its own.

Whilst the design and quantum of POS proposed is generally acceptable, I wish to highlight that the proposed development which incorporates its POS provision as part of the overall site on G1 zoned lands, is not consistent with objective DM OBJ 26 of the CDP. I note that this objective largely restricts the provision of the 15% POS provision associated with residential development on G1 zoned lands. I refer the Board to Section 9.8 of this report which considers further the matter of material contravention.

#### 8.3.5. Roads & Footpaths

A Statement of Compliance attached to this application demonstrates that the proposal in terms of roads, footpaths, kerb radii and road gradients are consistent with DMURS. While I have some reservations in regard to the proposed streetscape facing Churchfields along the site's western boundary, I am generally satisfied that the proposed development overall achieves a place-based/integrated approach to road and street design, based on key design principles as set out within DMURS. The proposal provides short & integrated streets along with a safe and attractive pedestrian environment, with associated street trees and planting. I note also that DMURS does not preclude the inclusion of a shared road space for cyclists and motorists. Given the nature and scale of the proposal, I am satisfied that the layout, including junction arrangement, is consistent with DMURS.

In examining a condition attached by the PA in regard to footpath provision (condition 6), I am of the view that this condition should not be applied. The Site Plan submitted at further information stage shows that all footpaths proposed within this development extend up to the site's boundary. Any further requirement(s) by way of condition, on lands outside of the site's delineated boundary, or applicant's ownership would be ultra vires.

I am further of the view that the existing road network has sufficient capacity in terms of its width, surfacing and alignment to accommodate the additional traffic generated by the proposed development and that no further compensating measures are required to maximise shared road space and traffic safety in this case. The increasing traffic volumes arising from the proposed 31 unit residential development in an urban area, in my opinion, will not be significant and a modal shift from the private car to more sustainable modes of transport should be encouraged and promoted, given the site's proximity to local services, schools, sporting facilities and Ashbourne's town centre.

Separately, I am of the view that concerns raised on health & safety regarding construction site access would be satisfactorily addressed within a Construction Environmental Management Plan. This matter can be appropriately addressed by condition should the Board be minded to grant permission.

#### 8.3.6. Car Parking

Some third-party concerns are raised on the dominance of car parking and associated environmental and traffic impacts, whilst other third party concerns are premised on the potential impacts due to overspill of parking generated within this development. I submit that the recently adopted Compact Guidelines (2024) now apply. The guidelines identify that the quantum of car parking in new developments should be minimised in order to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm. In this context, I am satisfied that a maximum rate of 2(no) spaces per dwelling is generally acceptable and therefore that the proposed car parking in this case is consistent with SPPR3 – Car Parking, given the site's peripheral location, as defined within Table 3.8 Accessibility of these Guidelines. In examining the matter of potential overspill car parking on an adjoining road, I note that in-curtilage car parking is in place

for adjoining residences in Churchfields and Bourne View and that there is no on-street car parking/controlled parking regime in the form of pay and display on adjoining cul-de-sac estates. Also, the provision of required ducting and EV charging within this scheme can be appropriately addressed by condition should the Board be minded to grant permission.

#### 8.3.7. Boundary Treatment

I note that the PA attached a condition which in part, provides for the inclusion of a 2-metre-high boundary wall along the eastern and southern boundaries of the site (Condition 10). Given existing rear boundary treatment associated with adjoining houses within Bourne View (east) and the need to protect existing hedgerow along the southern boundary, I suggest that a condition be attached which would allow for greater clarity on the provision of appropriate boundary treatment which is both necessary and would integrate effectively, with adjoining properties, in the event that the Board is minded to grant permission.

#### 8.4. **Archaeology and Protected Structure**

##### 8.4.1 Impact on Setting of adjacent complex of national monuments/protected structure

There is an approximate 20m separation distance between the northern boundary of the site (as delineated) and the perimeter of Killegland cemetery, a protected structure (LA RPS ID 91456). The Record of Protected Structures for Co. Meath describes this protected structure as 'a cemetery with the ruins of a church' and I note that the site is not listed on the Buildings of Ireland, National Inventory of Architectural Heritage. The National Monuments Service historic environment viewer also details that this adjoining site contains a complex of national monuments including Church (ME045-004), Ecclesiastical enclosure (ME045-004004) and Graveyard (ME045-004001).

In my view, the revised curvilinear boundary along the northern extent of the site is generally consistent with the considered approach put forward by the Council's Architectural Conservation Officer at further information stage and the need to retain and reflect the circular "buffer area" around the monuments in the amenity zone. Notwithstanding, I have concerns regarding the revised site layout which also includes the re-orientation and re-positioning of the proposed three-storey apartment block

which encompasses 6(no) maisonettes above 6(no) 1-bed apartment units at ground floor level. The proposed ground floor units back onto the adjoining POS that surrounds the protected structure & national monuments. Whilst I do not consider that the proposal would overbear the adjoining protected structure/national monuments, given that a separation distance of 29 metres (approx.) would be achieved, I am of the view that there would be a poor interrelationship between the proposed apartments and the protected structure/national monuments and adjoining POS area such that it would negatively impact on the setting of the adjoining protected structure/national monuments. Furthermore, whilst I acknowledge that the PA through the attachment of a condition seeks that a revised boundary be provided to allow for sufficient protection of private residential amenities of future occupiers of the ground floor apartments, I do not consider that this approach would satisfactorily address all matters in hand. I acknowledge that the Apartment Guidelines (2020) outline that private amenity space at ground floor level shall incorporate boundary treatment appropriate to ensure privacy and security, however in this case, the inclusion of a boundary wall as opposed to proposed railing would provide a physical barrier that would further disjoint the relationship between the proposed ground floor apartment units and the adjoining POS.

In light of the above, I am of the view that the proposal would adversely impact on the setting of protected structure (Ref. No. RPS ID 91456) and complex of national monuments and in my view, should be refused.

#### 8.4.2 Impact of Archaeology

I have examined the concerns expressed by an appellant on archaeology, the content of an Archaeological Assessment report (updated) submitted at further information stage and the National Monuments Service (NMS) response which informed the PA's decision. I have also consulted the National Monuments Service Environment Viewer. I note that the site is largely contained within the zone of notification of a complex of national monuments including Graveyard (ME045-004001), Ringfort – rath (ME045-004002), Ecclesiastical enclosure (ME045-004004), Church (ME045-004) and 3(no) Souterrains (ME045-004003, ME045-004005, (ME045-004006).

The test trenching undertaken on this site identified 3 areas of archaeological significance, notably: Archaeological Area 1 (AA1) a cluster of linear ditches showing a possible rectilinear enclosure with associated features at the NW quarter of the site and other smaller pits, spreads and linear gully type features, Archaeological Area 2 (AA2) one pit and an east-west linear ditch and Archaeological Area 3 (AA3) an isolated kiln in the SE area.

Whilst the Archaeological Assessment acknowledges that preservation of features in-situ is the best manner in which to conserve the archaeological resource, it outlines that this is not possible (except for features identified in trench 7) given the relatively small size of the development area, the layout/density requirements and the presence of a green space buffer between the site and the recorded monument to the north and recommends preservation by record, under license to the NMS.

The Archaeological Assessment submitted is clear in stating that ground disturbances associated with the proposed development will result in a direct and adverse impact on archaeological features identified during testing, within the northern half of the appeal site, with the features found primarily comprising linear ditches, but pits, kilns and spreads/deposits of archaeological soils. It also highlights that there may be an adverse impact on small or isolated archaeological features that have potential to survive within the site, outside of the excavated test trenches area.

Again, I reiterate that the subject lands are not specifically zoned within the CDP for residential development, and I consider that the rationale put forward in regard to the preservation of features by record as opposed to its preservation in-situ has not been sufficiently justified in this case. In examining the footprint of the development works proposed relative to the findings of the archaeological assessment, I note that all works associated with the apartment block (contained within AA1) in particular, will result in a direct and adverse impact on archaeological features centered on the pit/kiln cluster and immediately surrounding ditches identified during the 2021 testing. I acknowledge the role of the NMS in the protection of archaeological heritage and the content of their submission in this case regarding the inclusion of a condition on archaeological monitoring in the event of a grant of permission. The recommended condition states that the archaeologist may have works on the site stopped pending a decision as to



how best to deal with the archaeology, if found during the course of site monitoring at construction stage. Notwithstanding, the NMS submission provides no clarity in regard to the significance of archaeological findings already recorded within the submitted Archaeological Assessment. I wish to further highlight that objective HER OBJ 2 of the CDP seeks 'to ensure that development in the vicinity of a Recorded Monument or Zone of Archaeological Potential is sited and designed in a sensitive manner with a view to minimal detracting from the monument or its setting'. In this context, it is my opinion that permission should be refused in this instance, as the layout proposed would result in a direct and adverse impact on archaeological features, which if permitted, would be contrary to objective HER OBJ 2 of the CDP. In the event of a Board decision to grant planning permission in this case, I am satisfied that a similar condition as recommended by the NMS should be attached.

## **8.5. Receiving Environment**

### **8.5.1 Flooding**

I note that the relevant CFRAMS mapdata for this area is currently under review. The Strategic Flood Risk Assessment (SFRA) which was undertaken in preparation of the current CDP indicates that the site is not within an area identified as being at risk of flooding. The 'Engineering Assessment Report and Drainage Design Report' accompanying this application also details that the site is located within flood zone C and references that the highest predicted flood water level at node 4Ba16315 (approximately 400m NW of the site) is 64.93m AOD. The lowest proposed FFLs on the subject site is set at 69.95m AOD and there are no watercourses within or adjoining this site. In this instance, I consider that third-party concerns made in regard to flooding in the area of the site (including its southern end & Churchfields Estate Road) relate to pluvial events. In light of the above, I am satisfied that the site is not at flood risk and that no flood mitigation measures are required for the development proposed.

### **8.5.2 Surface Water Drainage**

I have considered the expressed concerns of third parties in regard to previous drainage issues experienced within Churchfields and the surface water drainage proposal submitted. A Drainage & Design Report (updated) along with associated

drawings submitted at further information stage provides for an attenuated area (348m<sup>3</sup>) and incorporates a reinforced/precast water tank as shown on Dwg. D1 Rev. PL3. The applicant confirms that the surface water attenuation's system high water level is separated from the lowest FFL by at least 500mm and that the proposed carriageways will be constructed to 1 in 200 or steeper gradient to provide adequate drainage to the proposed road gullies. The proposed attenuation would accommodate temporary flood storage for rainfall events up to 1 in 100 years. The PA were satisfied with the surface water drainage proposal put forward at application stage, subject to condition in regard to timescale for the installation of a hydrobrake which will restrict the flow rate applied to the proposed attenuation system, and I see no reason to dispute same. In light of this, in the event that the Board is of a view to grant permission, I suggest that a condition be attached on surface water drainage requirements which is similar to that of Condition 19, attached by the PA in its decision to grant permission.

#### 8.5.3 Wastewater & Water

It is proposed that foul waste would discharge to Uisce Eireann's network by gravity outfall via a newly constructed manhole on a 300Ø foul sewer located in Churchfield Road. I further note that no capacity issues have been raised by Uisce Eireann or MCC in the case of the proposed development. The submitted information in this application indicates that a connection to the public network can be facilitated, subject to the necessary consent being provided to connect into infrastructure within Churchfields, as detailed within Uisce Eireann's response to the applicant's pre-connection enquiry (05/11/2021), a copy of which is appended to the applicant's submission, dated 14 December 2021. I acknowledge that connection agreements with Uisce Eireann in regard to wastewater and water supply (connection proposed at Castle Road to serve this development) are required prior to commencement of works and that these agreements lie outside of the planning process. Should the Board be of a view to grant permission, I suggest that a condition be attached which requires the developer to enter into the required Connection Agreements with Uisce Éireann prior to the commencement of any works/development on the subject site.

#### 8.5.4 Noise & Light

The issue of noise in a general manner was raised by an observer. I submit that there are no national mandatory noise limits relating to such development projects. Most environmental noise guidance documents issued across Europe derive limits from guidance issued by the World Health Organisation (WHO). The time, place, nature of the sound and people affected by noise generated, requires consideration in determining likely impacts as a result of environmental noise. In this context and in assessing the development proposed, it is relevant to note that the local noise environment in this case is urban in character, with the predominant noise source being road traffic in the vicinity of the site. Given the nature, siting and scale of the proposed residential development, which is similar in character to the surrounding area, I am satisfied that operational noise arising from this development would achieve below 45dB night levels and that therefore, the residential amenities of adjoining properties within Churchfields and Bourne View would not be unduly impacted. I am further satisfied that noise levels at construction stage, which is short-term and temporary, can be managed through the implementation of a Construction Environmental Management Plan (CEMP) in the normal manner.

In regard to concerns on lighting, I consider it reasonable that a level of lighting on this urban site as part of the development proposed is necessary and permissible. Existing street lighting is in-situ within the adjoining housing schemes. The applicant proposes to provide 8(no) 6m high lighting columns with average wattage (CLO) 13. I note that the Council's Transportation Section (Public Lighting) has no objection to the proposed public lighting layout subject to compliance with the Council's 'Public Lighting Technical Specification and Requirements' document and distances of lighting columns to trees. Given the details submitted at further information stage and the siting of the public lighting columns, within the proposed site, separation distances to adjoining houses and that existing public lighting is established within adjoining residential estates, I do not consider that the proposal would unduly impact on the residential amenities of adjoining residences due to light pollution.

## **8.6. Ecology**

### **8.6.1. Bat Survey**

The EcIA submitted in response to the PA's further information request references that a Bat Survey was undertaken on 17 August 2021. The results of the Bat Survey indicate that the site has no potential for roosting habitat and that it is used only on an occasional basis for commuting bats, with foraging undertaken elsewhere (Refer Section 4.4.3, EcIA). All bats are protected species under national and EU legislation. There is no evidence provided to support the case that the proposed development will negatively impact on bat species. Furthermore, there is a separate process which the applicant is required to undertake with the NPWS which requires that a derogation license be issued, should any change in circumstance arise in relation to bat roosting on this site, or where any works undertaken would capture or kill, or disturb bats at important parts of their life cycle. In this context and given the nature and scale of the development proposed, on a greenfield site, the proposed retention of adjoining hedgerow along the southern boundary and subject to the appropriate implementation of bat sensitive lighting measures, as referenced within the EcIA, I am of the view that the proposed development would not have a negative impact on bat species and there is no likelihood of significant effects on the environment.

#### 8.6.2. Japanese Knotweed

I acknowledge that there is no statutory requirement on the landowner/applicant to carry out engagement on the matter of Japanese Knotweed and the management of same with neighbours. The management of invasive species lies outside of the planning process, a separate regulatory regime and it is an offence for anyone to cause or allow Japanese knotweed to be dispersed or spread. Based on the details submitted, I am generally satisfied that the applicant is carrying out an on-going treatment plan since 2019, to control the spread and eradicate Japanese knotweed within this site. Should the Board be minded to grant permission and for the purposes of clarity, I suggest that a condition be attached which is similarly worded to condition 5 of the PA's decision to grant permission which ensures that measures outlined within the Invasive Species Management Plan, submitted with this application, are successfully implemented.

#### 8.6.3 Biodiversity

The existing habitats within this site include dry meadow, amenity grassland and a hedgerow of local ecological importance. There are no ecological designations attached to the site, the existing hedgerow along the southern boundary will be retained and an updated Landscape Rationale submitted at further information stage incorporates tree planting and plant species for pollinators as part of the proposed development.

While the submitted Arboricultural Impact Assessment was not updated to reflect the revised layout proposed at further information stage, I am generally satisfied that there would be no significant deviation from the overall findings of the submitted Arboricultural Impact Assessment and that the proposed development would not require significant tree removal, with 4(no) category C, semi-mature hornbeams (1 of which is already dead) proposed to be removed to facilitate the proposed development.

In light of the above, while I note the concerns in observations made regarding impacts on biodiversity, I am satisfied that the proposed development would not have any negative impacts on biodiversity in this urban area and therefore, would be consistent with adopted policies HER POL 27 & 35 on biodiversity within the CDP.

#### **8.6.4 River Broadmeadow**

I have considered third party concerns regarding potential impacts on the River Broadmeadow. In my opinion, the proposed development will not have a negative effect on water quality within the River Broadmeadow or negatively impact on its ecosystem. The proposed development is located a distance of over 320m from the river, with an established intervening residential land use between the site and the river and no direct hydrological link to same. There would be no direct discharge from the proposed development to the river, in the event that this development were to proceed as all foul waste generated would discharge to Uisce Eireann's public wastewater network and the surface water drainage network with petrol interceptor and silt traps as detailed within the Drainage and Design Report (updated) and Dwg No. D1 Rev PL3, will address any potential hydrocarbon spillage/silt and debris, and provide sufficient protection to groundwaters.

#### **8.7. Other Procedural Matters.**

#### 8.7.1. Legal Interest

While the necessary consents over the extent of the proposed works is disputed by third parties, particularly in regard to wayleaves on foul/storm connections, I submit that there is no evidence attached to the appeal documentation to support the dispute raised on legal interest.

The accompanying drainage and watermains layout (Dwg. No. D1 Rev PL3) delineates proposed connections into adjoining third party lands, notably Churchfields. A Deed of Easement (copy of which is attached to this application), provides clarity on easements and rights & privileges granted to the applicant in regard to gaining access/egress, connections to conduits/utilities/roads and the right to free passage & running of the utilities within Churchfields, in the stated ownership of Cairn Homes Ltd. I further note that the PA was satisfied that the applicant demonstrated sufficient legal interest to make the planning application and that a letter of consent has been provided from Cairn Homes Properties (stating its ownership of adjoining lands) as part of the application. Notwithstanding, all related matters in determining land ownership and wayleaves are not ones for An Bord Pleanála. When disputes arise in such instances, it is considered that they are matters for the Courts to determine. Furthermore, if the Board is minded to grant permission, it can do so knowing that the permission is subject to the provisions of Section 34(13) PDA.

#### 8.7.2. Inadequate Details in Application, Unauthorised Works and Public Consultation

I am satisfied that the matters raised concerning inadequate details provided on drawings, shadowing (revised plans), contextual elevations, archaeology (sub-structural work), drainage and Screening for Appropriate Assessment did not prevent concerned parties from making representations and that the gaps in the details contained within the submitted application are not material in this case. I wish to highlight that whilst the Screening for Appropriate Assessment report assists the Board in its consideration of appropriate assessment, the Board is the competent authority in making a determination on Appropriate Assessment. I further note that the PA raised no issues in regard to site notice(s), and I am satisfied that the issues raised by third parties did not prevent concerned parties from making representations. In my view, these matters along with other raised issues in regard to building control, unauthorised

development (fencing), public consultation in respect of archaeology & excavation licensing and access to public information associated with the site's Vacant Sites Register (appeal) fall outside of the Board's remit in deciding this application.

#### 8.7.3 Development Contributions

The Meath County Council Development Contribution Scheme 2024 - 2029 (DCS) is now the relevant Section 48 DCS. Should the Board be minded to grant permission and given that no provision is made within the current DCS requiring contributions for the monitoring of construction phases, I am of the view that condition 24 attached by the PA should not be attached in the event of a decision to grant planning permission.

#### 8.7.4 EIA Requirement

Third Parties contend that the proposed development should have been subjected to EIA for a number of stated reasons. I refer the Board to Section 5.7 above along with completed Form 2 EIA Preliminary Examination appended to this report, and the assessment therein in relation to EIA.

This assessment represents my de novo consideration of all planning issues material to the proposed development.

### 8.8 Material Contravention

8.8.1 There are two matters of relevance to the proposed development in regard to potential for a material contravention of the Development Plan, notably; (1) the site's land use zoning objective G1 Community Infrastructure 'to provide for necessary community, social and educational facilities' and (2) Objective SOC OBJ 13 and Objective DM OBJ 26 which restrict the inclusion of Residential Development / POS associated with residential development on G1 zoned lands.

8.8.2 Firstly, given that 'residential' (whether it be conventional housing or social housing) is an 'open for consideration' use on G1 zoned lands, the site's land use zoning objective is not, in my view, sufficiently specific so as to justify the use of the term "materially

contravene” in terms of normal planning practice in this case. Should the Board not concur with my view on this matter, I have carried out the relevant tests under Section 37(2) (Refer Section 8.8.4 below).

- 8.8.3 Secondly, objective DM OBJ 26 of the Plan provides that in residential development cases, lands zoned G1 Community Infrastructure cannot be included as part of the development’s minimum 15% POS provision. A material contravention of this objective therefore arises as the proposal incorporates its 2(no) POS areas, both of which are integral to the overall scheme, on G1 zoned lands.

Similarly, objective SOC OBJ 13 of the Plan provides that proposed residential development cases cannot include lands zoned G1 Community Infrastructure. A material contravention of this objective therefore also arises as the development would be entirely located on G1 zoned lands. I wish to further note that whilst this objective (SOC OBJ 13) may be considered as being somewhat unclear given that reference is also made within this objective that ‘the open space requirements shall be provided for within the development site area’, I am of the view that no uncertainty remains on the fact that residential development insofar as it relates to this objective, cannot be included on G1 zoned lands.

- 8.8.4 Having regard to Section 37(2) of the Planning and Development Act 2000 (as amended) (PDA), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the PA to whose decision the appeal relates, where:

- i. the proposed development is of strategic or national importance:

The development of 31 (no) residential units is not considered to be of strategic or national importance and the site, zoned G1 Community Infrastructure is not included in the Council’s total land capacity for the provision of housing, in meeting housing targets set by Ministerial Guidelines and the NPF. Therefore, it would not justify a material contravention of the CDP in this case.

or;



- ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned:

Objective DM OBJ 26 provides that POS shall be provided for residential development at a minimum rate of 15% of total site area and that lands zoned G1 Community Infrastructure cannot be included as part of the 15%.

Objective SOC OBJ 13 provides that G1 zoned lands cannot be included within the development site area in residential development cases. Whilst this objective (SOC OBJ 13) also states that 'the open space requirements shall be provided for within the development site area', the land use zoning category which provides for residential as an 'open for consideration' use does not in itself justify the use of this site exclusively for residential. In doing so, it would preclude the delivery of G1 - community, social and educational uses on this site, which is contrary to the intention of the site's land use zoning objective. In this context, I am of the opinion that the interpreting of these objectives must be as they would be interpreted by a reasonably intelligent and informed lay person. I am satisfied that the objective SOC OBJ 13 clearly expresses that residential development cannot be included on G1 zoned lands. Therefore, given that the subject site is wholly contained on lands zoned G1, I do not regard that the part reference made within this objective to the provision of open space requirements within the development site area or the status of 'residential' as an open for consideration use on G1 zoned lands to justify a material contravention of the CDP in this case.

or;

- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government:

Ashbourne is identified as a self-sustaining town within the RSES. Section 4.7 of the RSES states that population growth shall be at a rate that seeks to achieve a balancing effect, focused on consolidation and inclusion of policies in relation to improvements in services and employment provision, to be set out in

the core strategy of the CDP. The site is not zoned for residential development and it is not included in the total land capacity for the provision of housing as set out within the Core Strategy. Its development for residential use only, therefore, would run contrary to the balancing effect sought within the RSES in the delivery of population growth and the delivery of improvements in services and employment provision, which in part, is relevant in the delivery of community, social and educational facilities. It therefore would not justify a material contravention of the CDP in this case.

or;

- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

There is no evidence provided that similar such development has been granted in the immediate area of this site following the adoption and implementation of the CDP, which would justify a material contravention of the CDP in this case.

Having regard to criteria under Section 37(2) of the PDA, as above, it is my view that a material contravention is not warranted in this case.

## **9.0 AA Screening**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of proposed works consisting of a 31-unit residential development, on a serviceable site within an urban and built area.
- The site's location, over 13.6km from the nearest European site, with no direct hydrological or ecological connections.
- Taking into account screening determination by the PA.

See completed 'Template 2 Screening the need for Appropriate Assessment' which is appended to this report.

## **10.0 Recommendation**

I recommend that planning permission be refused for the following reasons and considerations.

## **11.0 Reasons and Considerations**

1. The proposed development which provides solely for residential use on lands zoned G1 Community Infrastructure, and which are not included in the total land capacity for the provision of housing as set out within the County's Core Strategy, would, if permitted, be contrary to the intention of the site's zoning objective, 'to provide for necessary community, social and educational facilities' and would be contrary to objective CS OBJ 3 'to ensure the implementation of the population, housing growth and household allocation set out in the Core Strategy and Settlement Strategy, in so far as practicable' within the Meath County Development Plan 2021-2027. Furthermore, the proposed development, if permitted, would materially contravene objective DM OBJ 26 and objective SOC OBJ 13 of the Meath County Development Plan 2021-2027 as this residential scheme and its associated public open space provision would be located on G1 Community Infrastructure zoned lands. Accordingly, to permit the development proposed on the subject lands would be contrary to policy SH POL 13 of the Development Plan, which requires that all new residential development accords with the land use zoning objective, in so far as is practicable and would be contrary to the proper planning and sustainable development of the area.

2. Given the siting of the proposed development and the findings of an Archaeological Assessment which accompanies this application, it is considered that the proposed development, would unnecessarily injure or interfere with historic remains within the development site and on the setting of a complex of national monuments and would detract from the character and setting of a protected structure (RPS ID 91456). Accordingly, to permit the development proposed would be contrary

to objective HER OBJ 2 of the Meath County Development Plan 2021-2027 which seeks to ensure that development in the vicinity of a Recorded Monument or Zone of Archaeological Potential is sited and designed in a sensitive manner with a view to minimal detracting from the monument or its setting, and would be contrary to policy HER POL 16 of the Development Plan which seeks to protect the setting of Protected Structures.

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.

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Paula Hanlon  
Planning Inspector  
30 September 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319332-24		
<b>Proposed Development Summary</b>	Construction of 31 residential dwellings		
<b>Development Address</b>	Killegland, Ashbourne, Co. Meath.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	
<b>Yes</b>	X	Class 10 (Infrastructure Projects)	
			<b>Conclusion</b>
			No EIAR or Preliminary Examination required
			Proceed to Q.4

	<p>Class10(b)(i) - Construction of more than 500 dwelling units.</p> <p>Class10(b)(iv) - Urban development which would involve an area greater than 10ha in the case of other parts of a built-up area.</p> <p>Class 13 - Changes, extensions, development and testing</p> <p>(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.</p>	<p>The proposed development of 31 residential units on a standalone site is below the threshold stated within Class 10(b)(i) (i.e. 500 dwelling units).</p> <p>The site area stated as 0.84ha located outside of Ashbourne's business district is significantly below the 10ha threshold for urban development in the case of other parts of a built-up area.</p> <p>Class 13 <u>may</u> be considered relevant in this case given that the proposed development would connect into existing infrastructure within Churchfields. The proposed development however would not result in an increase in size greater than 25% of the adjoining Churchfields development or result in an amount equal to 50% of the 10ha site area threshold or 500 dwelling units threshold stated within Class 10.</p>	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Form 2 EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	319332-24	
<b>Proposed Development Summary</b>	Construction of 31 residential dwellings	
<b>Development Address</b>	Killegland, Ashbourne, Co. Meath.	
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development.</b> Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is not exceptional in the context of the existing environment. This site which lies undeveloped, is located in an urban area and on serviceable lands. Its topography is broadly flat, low-lying lands. There are no protected habitats within or adjoining the site. The site comprises predominantly amenity grassland &amp; dry meadow, along with a native hedgerow along its southern boundary. The site is of archaeological interest. The nearest watercourse is a distance in excess of 320m north of the site.</p> <p>Adjoining lands to the east and west are developed for residential. Lands to the north of the site contain a complex of national monuments and a protected structure. Lands to the south are in agricultural use.</p> <p>There would be no rise in waste, emissions or pollutants over and above that of adjoining residential development.</p>	No



<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>No. The site area is 0.84ha. The proposed development is on a standalone site. The submitted application requires a connection to established surface water and wastewater infrastructure within Churchfields. There are a number of planning history applications associated with Churchfields and an EIA accompanied the parent application on these adjoining lands. I note that the overall stated area for Churchfields is 14.85ha and the total number of existing residential units exceed 500 units (inclusive of amendments to the parent permission).</p> <p>The proposed development will connect into adjoining foul/surface water infrastructure.</p>	<p>No</p>
<p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>There are no significant cumulative considerations in this case for reasons set out below.</p> <ul style="list-style-type: none"> <li>• There are no other development(s) under construction adjoining the site. All other developments are established uses.</li> <li>• Surface water is proposed to be attenuated on-site and to the adjoining established drainage network, with the nearest watercourse in excess of 320m north of the site.</li> <li>• Foul waste generated is proposed to discharge into the public network via gravity outfall, with connection within adjoining infrastructure within Churchfields which is intended to be taken in charge by Uisce Eireann.</li> </ul>	<p>No</p>
<p><b>Location of the Development</b> Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically</p>	<p>No. The appeal site is not located on or within proximity to any designated Natura 2000 site(s). It is located a distance over 13.6km from the nearest European Sites being Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA (004025).</p>	<p>No</p>

<p>sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>No. The site is located approximately 320m from the nearest watercourse (River Broadmeadow) and there is no direct hydrological connection to this watercourse.</p> <p>The site is located on lands which lie adjacent to a protected structure (RPS ID 91456). This protected structure is not listed within the NIAH. It also lies adjacent to a complex of national monuments; [church (ME045-004); graveyard (ME045-004001) and ringfort (ME045-004002)]. The proposed development will be setback a distance of c.29m to adjoining protected structure (RPS ID 91456). The proposal would result in a direct and adverse localised impact on archaeological features identified during testing, within the northern half of the site, but not of such significant effect on the environment as to require EIA.</p> <p>There would be no rise in waste, pollution or other nuisances over and above that of adjoining residential development and no known risks to human health. The proposal would not give rise to a risk of major accidents.</p> <p>There are no other environmental sensitivities in the immediate vicinity of relevance.</p>	
<p><b>Conclusion</b></p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>		
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Template 2: Screening the need for Appropriate Assessment Finding of no likely significant effects

### Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development which comprises the construction of 31 residential units and associated works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development (following receipt of revised plans at further information stage) comprises:

- 19(no) 2-storey houses [12 x 3-bed & 7 x 4-bed]
- 12(no) units within a 3-storey residential block [6(no) 1-bed apts & 6(no) 2-bed apts]
- Associated open spaces.

The site is a greenfield, serviceable site within a built, urban area which is currently in grassland and comprises a predominantly low-lying, flat topography. There are no protected habitats attached to this site. The site comprises predominantly amenity grasslands, dry meadow and a native hedgerow of local ecological importance along its southern boundary.

No issues were raised by prescribed bodies during the consultation process.

The appellant raised concerns on nature conservation in the planning appeal and considers that the Screening for Appropriate Assessment which accompanied this application does not consider revised surface water design proposal and potential effects on to the Broadmeadow River.

The PA determined that the proposed development is not likely to give rise to significant effect on a Natura 2000 site.

### European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

- Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA(004025)

The boundary of Malahide Estuary SAC and Malahide Estuary SPA being the nearest European sites, are located over 13.6km SE of the site.

Malahide Estuary SAC (000205)	Qualifying Interests	Conservation Objective
	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Spartina swards [1320]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> <li>• Shifting dunes along the shoreline with white dunes [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation [2130]</li> </ul>	<p>To maintain the favourable conservation condition of mudflats &amp; sandflats not covered by seawater at low tide, salicornia and other annuals colonising mud &amp; sand, and mediterranean salt meadows in Malahide Estuary SAC.</p> <p>To restore the favourable conservation condition of</p> <ul style="list-style-type: none"> <li>- Atlantic salt meadows,</li> <li>- Shifting dunes along the shoreline with 'white dunes'</li> </ul> <p>in Malahide Estuary SAC.</p>
Malahide Estuary SPA (004025)	Qualifying Interests	Conservation Objective
	<ul style="list-style-type: none"> <li>• Great Crested Grebe [A005]</li> <li>• Light-bellied Brent Goose [A046]</li> </ul>	To maintain the favourable conservation condition of Great Crested Grebe,

	<ul style="list-style-type: none"> <li>• Shelduck [A048]</li> <li>• Pintail [A054]</li> <li>• Goldeneye [A067]</li> <li>• Red-breasted Merganser [A069]</li> <li>• Oystercatcher [A130]</li> <li>• Golden Plover [A140]</li> <li>• Grey Plover [A141]</li> <li>• Knot [A143]</li> <li>• Dunlin [A149]</li> <li>• Black-tailed Godwit [A156]</li> <li>• Bar-tailed Godwit [A157]</li> <li>• Redshank [A162]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	Light-bellied Brent Goose, Shelduck, pintail, Goldeneye, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit and Redshank in Malahide Estuary SPA.
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- Rogerstown Estuary SAC (000208) and Rogerstown Estuary SPA (004015)

The boundary of Rogerstown Estuary SAC and Rogerstown Estuary SPA being the next nearest European sites, are located over 14km east of the site.

Rogerstown Estuary SAC (Site Code 000208)	Qualifying Interests	Conservation Objective
	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> </ul>	<p>To maintain the favourable conservation condition of</p> <ul style="list-style-type: none"> <li>-Estuaries,</li> <li>- Mudflats and sandflats not covered by seawater at low tide,</li> <li>- Salicornia and other annuals colonizing mud and sand,</li> </ul>

	<ul style="list-style-type: none"> <li>• Shifting dunes along the shoreline with white dunes [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation [2130]</li> </ul>	<ul style="list-style-type: none"> <li>- Mediterranean salt meadows in Rogerstown Estuary SAC;</li> <li>and</li> <li>To restore the favourable conservation condition of</li> <li>- Atlantic salt meadows</li> <li>- Shifting dunes along the shoreline with 'white dunes'</li> <li>- Fixed coastal dunes with herbaceous vegetation ('grey dunes')</li> <li>in Rogerstown Estuary SAC.</li> </ul>	
Rogerstown Estuary SPA (004015)	Qualifying Interests	Conservation Objective	
	<ul style="list-style-type: none"> <li>• Greylag Goose [A043]</li> <li>• Light-bellied Brent Goose [A046]</li> <li>• Shelduck [A048]</li> <li>• Shoveler [A056]</li> <li>• Oystercatcher [A130]</li> <li>• Ringed Plover [A137]</li> <li>• Grey Plover [A141]</li> <li>• Knot [A143]</li> <li>• Dunlin [A149]</li> <li>• Black-tailed Godwit ([A156]</li> <li>• Redshank [A162]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	To maintain the favourable conservation condition of Greylag Goose, Light-bellied Brent Goose, Shelduck, Shoveler, Oystercatcher, Ringed Plover, Grey Plover, Knot, Dunlin, Black-tailed Godwit, Redshank and Wetland and Waterbirds in Rogerstown Estuary SPA.	

There is no direct physical, hydrological or ecological linkage connecting the project site to any European site (including Malahide Estuary SPA, Malahide Estuary SAC, Rogerstown Estuary SPA and Rogerstown Estuary SAC). There are no watercourses or drainage ditches within or adjacent to the site and the site currently discharges to ground. The Broadmeadow River, located a distance of c.320m north of the site (at its closest point), traverses the urban area of Ashbourne and connects with Malahide Estuary SAC and Malahide Estuary SPA approximately 13.6km (as the crow flies) downstream (SE of this site).

**Likely impacts of the project (alone or in combination)**

The proposed development works will be contained within the delineated site. Wastewater generated on site would discharge to Uisce Eireann's public wastewater network, via permitted infrastructure serving Churchfields. Surface water to be attenuated on site and to the adjoining established drainage network within Churchfields. The nearest watercourse is in excess of 320m north of the site. Given the separation distance to the nearest European site(s), the intervening urban use between the proposed site and the Malahide Estuary SAC and SPA which would intercept any overland flow and that that no direct hydrological or ecological link exists between the subject lands and these European sites, I am satisfied that any stormwater discharges arising from this development will not have a significant effect on any European site, either individually or in-combination with other plans and projects. The Surface Water measures described in the 'Engineering Assessment and Drainage Design Report' for the management of surface water are not proposed or intended to avoid, reduce or remedy any potential impacts on any European Site(s).

No changes are proposed to the ecological function of the site and no disturbance impacts or significant habitat loss are identified.

Given the nature, siting and scale of the development, at both construction and operation stage, within an urban area and on serviceable lands, coupled with separation distance to the nearest European Site (over 13.6km) and in examining the qualifying interests and conservation objectives of these European sites, the



proposed development is not likely to impact either directly or indirectly on these European sites as no direct physical, hydrological or ecological linkage exists between the project site and these European sites.

No ex-situ effects are likely having regard to the characteristics of the site which consists of amenity grassland, dry meadow and hedgerow.