



An
Coimisiún
Pleanála

Inspector's Report ACP-323690-25

Development	Construction of 18 2-4 bedroom 2 storey semi-detached houses with rear gardens. A Natura Impact Statement (NIS) was submitted with this application.
Location	Lands located at Kavanagh's Garden, Beaverstown Road, Donabate, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F25A/0580E
Applicant(s)	Sebring Ltd
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Sebring Ltd
Observer(s)	Selina Rickard; Alberto Ciaramella & Bhanita Ray; Aidan & Elaine Gallagher; and Brian & Camille Geraghty.
Date of Site Inspection	6 th February 2026
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site is located off Beaverstown Road, Donabate. It comprises an open field which is rectangular in shape and generally level. The stated site area is 0.52ha. The southern western boundary comprises a timber fence; the southern boundary is a wire fence; the northern boundary comprises a wall, hedges, and trees; and the eastern boundary comprises a post & panel fence.
- 1.1.2. Donabate-Portrane Educate Together National School is to the south. The 'Somerton' housing estate backs onto the site from the east. Houses in the estate are 2-storey. There is a bungalow known as 'Strawberry Bungalow' and an area of overgrown land to the north. Beaverstown Road runs along the western boundary. The access to the Beaverstown Orchard housing estate and a 2-storey dwelling are across Beaverstown Road to the west.
- 1.1.3. Adjacent the site, within the school site there is a drainage channel which measures approximately 100m long by 1.5m wide.

2.0 Proposed Development

- 2.1.1. The proposed development comprises 18 no. terraced and semi-detached 2-storey dwellings. It is to be accessed by a single access from Beaverstown Road. The dwellings are to be accessed off a central spine shared surface route.
- 2.1.2. The applicant submitted to the Planning Authority an Architectural Design Statement, Planning Report, Landscape Design Statement, Housing Quality Assessment, Stage 1/2 Road Safety Audit (RSA), Engineering Assessment Report, Construction Environmental Management Plan (CEMP), 3D visualisations, Appropriate Assessment (AA) Screening Report, Natura Impact Statement (NIS), and related architectural, engineering and landscape drawings.
- 2.1.3. The appeal includes a revised landscape design, revised drawing details, CGIs, a Flood Risk Assessment, Ecological Impact Assessment, revised NIS, and engineering letters. Public notices relating to the revised NIS were issued in response to a request from the Commission.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council issued a notification to refuse permission for 4 no. reasons, which I summarise as follows:

- Reason 1: The shared surface road and 2m high boundary wall along the road would result in unacceptable impacts on pedestrian and road user safety due to removal of visibility and passive surveillance. The length of the shared surface without adequate pedestrian protection is unsafe. The development would endanger public safety by reason of serious traffic hazard;
- Reason 2: The proposed provision of open space is considered inappropriate and unacceptable and would not satisfy the requirements of Section 14.13.3.1 and the proposed public open space would be contrary to Objective DMSO63 of the Development Plan;
- Reason 3: The application was not accompanied by an Ecological Impact Assessment (EclA). In the absence of this assessment, the Authority is not satisfied the development would not result in significant adverse impact on the riparian corridor or the wider ecological environment;
- Reason 4: Applicant failed to adequately address flood risk associated with the ditch along the southern boundary as mentioned in the County Development Plan Strategic Flood Risk Assessment. In the absence of a sufficiently detailed site-specific flood risk assessment the development would be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning report: The report recommended refusal generally as follows:

- Principle of development: Site is zoned 'RS – Residential'. Report summarises pre-planning consultation. Proposal is acceptable in principle;
- Standard of development: Proposal meets Quality Housing Guidelines minimums. Proposal meets Compact Settlement Guidelines private open space standards. Concern raised with security of rear garden accesses. Proposed

ridge heights are 1.1m higher than dwellings in Somerton. Proposed brick and render finishes are not acceptable; brick on front and side elevations and alternating brick between dwellings is preferred. Details would have to be confirmed and can be addressed by further information;

- Visual & residential amenity: No. 77-79 Somerton are set back approx. 25m from the rear of the proposed dwellings. The proposal has a significant impact on the area due to overall scale and intensity of development. The layout represents an over-intensification of the site and gives rise to concerns of overdevelopment. The treatment and protection of the riparian corridor on the southern boundary raises concerns and requires resolution;
- Access, parking & transport: Site is in the 50kmh zone. Works to the footpath are proposed; pedestrian connectivity should be protected at this junction and details are required prior to construction. Beaverstown Road is part of the Emerging Preferred Route Fingal Coastal Way; the proposal should be amended to provide a setback of approx. 4-4.7m from the road edge. Proposal will have good connectivity to Donabate. Sightlines accord with DMURS. The proposed taking in charge is acceptable. The swept path analysis indicates fire tender and refuse trucks can navigate the site;
- Parking: Cycle parking is acceptable; the type and position of cycle storage units should be agreed. Regarding car parking, site is within Zone 1 and a High Capacity Public Transport Node or Interchange area. Development Plan provides for a maximum of 0.5 spaces for 1-2 bedroom units and 1 space for 3 bedroom units; the proposed 1 space per unit is acceptable;
- Road safety: A Stage 1 RSA is submitted. Should permission be granted a Stage 2/3 RSA must be completed;
- Internal site access: Report states that concerns have been raised regarding the proposed shared surface. A 1.8m high brick wall will run either side of the road and will continue to the northern side of the road at the rear of dwelling no. 10. This raises serious safety concerns due to lack of visibility for pedestrians. Whilst the shared surface may encourage vehicles to slow, the lack of adequate pedestrian visibility along the 50m stretch of road as well as inadequate public lighting is unsafe. This arrangement creates unacceptable risk for pedestrians.

The wall removes passive surveillance. Provision of a pedestrian path alongside the shared surface could help address concerns, the side walls remain the primary issue. Proposal is not acceptable;

- Public lighting: The Public Lighting Section recommended a request for further information and set out detailed lighting requirements;
- Water services: The Water Services Department recommended a request for further information;
- Trees & hedgerows: Site is in a 'Highly Sensitive Coastal' landscape character type area. There are trees and hedgerows on the site boundary worthy of retention. No tree survey is submitted. A tree survey is required;
- Townland boundaries: The Ballisk Common townland boundary runs along the northern site boundary which be retained and protected;
- Riparian / ecological corridor protection: The boundary of the proposed houses is on the riparian sloped area; further consideration shall be given for the location of the side boundary of the adjacent houses;
- Public open space: A revised landscape plan is required as additional information to clearly delineate a minimum 15% of the net development area as public open space. Location of wheelie-bin storage and pump station, and locating an underground tank on a large portion of public open space, are not acceptable. More SuDS solutions should be incorporated;
- Boundary treatment: Report raised concerns on internal and external boundary treatments, finishes and planting, gates, the extent of blank walls, passive surveillance of the public realm, and finishes;
- Landscaping: Report set out issues / lack of detail in the submitted landscape plan, and stated that a revised taking in charge plan should be submitted;
- Archaeology: Report noted submission from the Department and recommendation for archaeological monitoring;
- AA screening: Report referred to Rogerstown SAC, North-West Irish Sea SPA, and Malahide Estuary 'SAC SPA', and stated the submitted AA Screening Report refers only to Rogerstown Estuary SAC and Rogerstown Estuary SPA.

Report stated the Senior Ecologist considered the application demonstrated the proposal would not have an adverse impact on any Natura 2000 site. Report recommended that condition be attached;

- EIA Screening: Report stated that an EclA is required to ensure potential impacts on biodiversity receptors other than European Sites are considered;
- Conclusion: Proposal does not demonstrate a high-quality design to the context of the infill site. Many concerns have been raised through the lack of information submitted. Scheme fails to appropriately address matters of material finishes, passive surveillance, adequate provision of public open space; and overall site layout configuration. Proposal is not consistent with principle of high-quality infill development in Development Plan Table 14.4. Report recommended 4 no. reasons for refusal generally as per the Decision.

Other Technical Reports

3.2.2. Parks & Green Infrastructure Division: Report recommended further information. I note the following points:

- Landscape: Site located in a 'Highly Sensitive Landscape'; emphasis must be placed on retention of landscape features. There are existing trees & hedgerows on the site boundary worthy of retention. A tree survey is required;
- Townlands: A townland boundary is located along the northern site boundary;
- Riparian / ecological corridor: Development plan states that a riparian corridor should be established either side of all watercourses. The houses appear to be on the riparian sloped area. Revised layouts should show a 10m buffer;
- Public open space: The public open space requirement for the development is 1,475sqm. 15% minimum net site area is required, equating to 780sqm. 563sqm is proposed. This includes the wheelie bin collection area and underground pumping station which is not acceptable. Open space must also exclude incidental areas & narrow strips. Areas of open space less than 500sqm will not be taken in charge. Shortfalls in open space will be addressed by financial contribution. A revised landscape plan shall be submitted;
- Open space design: The prominent location of the pump station needs to be reconsidered. Its location beside seating is not appropriate. The underground

tank below a large proportion of public open space is not acceptable. More nature-based sustainable urban drainage salutation should be incorporated;

- Boundaries: Revised details of boundary treatments, including details of tree planting are required. Report set out numerous design details required of a revised landscape plan.

3.2.3. Transportation Planning: No objection subject to 11 no. conditions. I note the following points:

- Connectivity: Details of works to footpath to be agreed prior to construction. A setback for the Emerging Preferred Route Fingal Coastal Way is required;
- Cycle parking: Proposed cycle parking is acceptable in principle. The proposed cycle stores are not appropriate and should be agreed;
- Car parking: Proposed provision is acceptable;
- Sightlines: Sightlines accord with DMURS;
- Taking in charge: Proposals are acceptable;
- Road safety audit: Stage 2/3 RSA to be completed if permission is granted;
- Swept path analysis: Fire tender and refuse truck can navigate the proposal;
- Conditions: Report sets out 11 no. conditions.

3.2.4. Water Services Department: Recommended further information. I note the following points:

- Flood risk: Development Plan SFRA indicated a risk of flooding along the ditch on the southern boundary of the site. Applicant to submit a SSFRA;
- Foul drainage: Clarification of buffer associated with pumping station;
- Surface water drainage: Applicant requested to confirm riparian buffer associated with the wet ditch along the southern boundary, including sections showing the relationship with the development.

3.2.5. Public lighting: Report recommended 10 no. standard conditions.

3.2.6. I note the Planner Report referred to comments from the Planning Authority Senior Ecologist however no such report is on the case file or Planning Authority public file.

3.3. **Prescribed Bodies**

- 3.3.1. Department of Housing, Local Government and Heritage (DoHLGH) Development Applications Unit: Submission recommended archaeological monitoring.

3.4. **Third Party Observations**

- 3.4.1. During the planning application stage 11 no. observers made submissions to the Planning Authority, including from two local Councillors. The issues raised related to: Supporting lack of infrastructure and amenities; traffic impact & proximity of other accesses; residential amenity including in relation to specific neighbouring dwellings and solar panels; flooding & drainage; parking; trees, hedgerows & boundaries; boundary ownership; density; wildlife/biodiversity; bats; foul drainage; proximity to watercourse; proximity to school and impact on students; premature and excessive without a Local Area Plan; incorrect classification of Donabate; construction times; and requested conditions.

4.0 **Planning History**

- 4.1.1. None relevant.

5.0 **Policy Context**

5.1. **National guidelines and strategies**

Sustainable Residential Development & Compact Settlements 2024 and Appendices.

Ireland's 4th National Biodiversity Action Plan 2023-2030, incl. Objectives & Targets.

Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities 2023.

Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design, Best Practice Interim Guidance Document (Department of Housing, Local Government & Heritage, 2022).

Development Plan Guidelines for Planning Authorities 2022.

Inland Fisheries Ireland ‘Planning for Watercourses in the Urban Environment’ 2020.

Design Manual for Urban Roads & Streets (DMURS) 2019 incl. Section 4.3.4, Figure 4.51 and Advice Note 5 ‘Road and Street Drainage using Nature Based Solutions’).

Urban Development and Building Heights Guidelines (December, 2018).

Inland Fisheries Ireland ‘Guidelines on protection of fisheries during construction works in and adjacent to waters’ 2016.

Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities 2009.

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009 (incl. Section 3.18) and related Urban Design Manual 2009 and Urban Design Manual, A Best Practice Guide, A Companion Document to the Planning Guidelines on Sustainable Residential Development in Urban Areas, DEHLG 2009.

Planning System & Flood Risk Management Guidelines 2009.

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivery Homes Sustaining Communities 2007.

5.2. Development Plan

5.2.1. The site is zoned ‘RS – Residential’ in the Fingal County Development Plan 2023-2029, where the land use zoning objective is “*Provide for residential development and protect and improve residential amenity*”.

5.2.2. A large number of Development Plan policies, objectives and provisions are referenced in the file and are relevant to the case, summarised as follows:

Density, Character & Quality

Table 2.20 ‘Fingal Settlement Hierarchy’; Policy SPQHO1 ‘Sustainable Communities’; Objective SPQHP35 ‘Quality of Residential Development’; Objective SPQHO38 ‘Residential Development at Sustainable Densities’; and Objective SPQHO39 ‘New Infill Development’.

Objective ZO2 ‘Transitional Zonal Areas’.

Design & Layout

Objective IUO7 'Buffer Zones around Pumping Stations'

Section 14.2.4 'Safety and Security'

Sections 14.4 'Sustainable Placemaking and Quality Homes';

Objective DMSO5 'Design Statement'

Section 14.5 'Consolidation of the Built Form: Design Parameters' incl. Table 14.4. 'Infill Development'.

Section 14.6 'Design Criteria for Residential Development in Fingal'.

Objective DMSO19 'New Residential Development'.

Objective DMSO23 'Separation Distance'.

Section 14.8 'Housing Development/Standards'.

Section 14.9 'Residential Development – General Requirements'.

Objective DMSO31 'Infill Development'; Table 14.4 'Infill Development'

Section 14.20 'Infrastructure and Utilities' incl. Section 14.20.17 'Noise'

Section 14.21 'Climate Action'

Open Space

Section 14.6.5 'Open Space Serving Residential Development' incl. Table 14.6 'Open Space Categories Open Space'. Table 14.12;

Objective DMSO53 'Financial Contribution in Lieu of Public Open Space', Objective DMSO59 'Small Areas of Open Space'; Section 14.13.3.1 'Design of Public Open Spaces'; and Objective DMSO64 'Design of Open Space'.

DMSO63 'Location of Open Space' which seeks to: "*Ensure open spaces are not located to the side or the rear of housing units.*"

Landscape:

Objective DMSO125 'Management of Trees and Hedgerows'; Objective DMSO126 'Protection of Trees and Hedgerows during Development'; Objective DMSO128 'Demarcation of Townland Boundaries'; and Objective DMSO172 'Protection of Historic Townland Boundaries'.

Water courses and ecological / Riparian corridors (*emphasis added*)

Policy GINHP7 'Protection': *"Protect and enhance the natural, historical, amenity and biodiversity value of the County's watercourses, flood plains, riparian corridors, wetlands and coastal area through long-term and liaison with relevant Prescribed Bodies where appropriate".*

Section 9.6.8 'Ecological Corridors and Stepping-Stones Including Trees and Hedgerows': *"Ecological corridors are linear landscape features such as rivers, hedgerows and road verges that facilitate the movement of wildlife through the landscape. Stepping-stones are located along these corridors and comprise a series of smaller landscape features such as small woodlands, areas of scrub, wet grassland and marshes. The key corridors in Fingal are along the major rivers, including their floodplains and the adjacent farmland or parkland. The Liffey, Tolka, Pinkeen, Ward, Broadmeadow, Ballyboghil, Corduff, Sluice, Mayne and Delvin rivers and their tributaries, are salmonid systems (designated pursuant to Directive 78/659/EEC) and are therefore of particular significance. The Liffey and the Ward rivers are exceptional in supporting Atlantic Salmon (listed in Annex II of the Habitats Directive), Sea Trout and Brown Trout populations. To be ecologically effective, corridors need to be a minimum of 48m in width measured from the top of each riverbank. This width allows many species associated with rivers such as the Otter, Bats, Kingfisher, and Dipper, together with the aquatic species in the rivers such as Salmon, Sea Trout, Brown Trout and Lamprey to thrive. These have been selected because of their existing or potential value for wildlife. **A buffer of a minimum width of 10m measured from each bank shall apply along small streams and drains.** A minimum 10m wide riparian buffer strip measured from the top of the bank either side of all watercourses applies to lands within designated settlement boundaries (as per FCC's Settlement Hierarchy set out in Chapter 2 Planning for Growth). Where lands encompass urban and rural areas, a transitional approach from the urban riparian requirements to the rural riparian requirements may be appropriate and will be assessed on a case-by-case basis."*

Objective IUO14 'Buffer Zones for Riparian Corridors': *"Implement policies relating to the buffer zones for riparian corridors and SuDS, having regard to Fingal's SuDS Guidance document Green/ Blue Infrastructure for Development, as amended."*

Policy IUP16 'IFI Guidelines Planning for Watercourses in the Urban Environment 2020': *"Protect inland and sea fisheries and take full account of Inland Fisheries*

Ireland Guidelines Planning for Watercourses in the Urban Environment 2020, when undertaking, approving or authorising development or works which may impact on rivers streams, watercourses, estuaries, shorelines and their associated habitats.”

Objective IUO26 ‘Riparian Corridors’: *“Establish riparian corridors free from new development along **all significant watercourses and streams** in the County:*

*Ensure a minimum 10m wide riparian buffer strip measured from the top of the bank either side **of all watercourses**. This minimum 10m wide riparian buffer strip applies to lands within development boundaries– i.e. within designated settlement boundaries (as per Fingal County Council’s Settlement Hierarchy set out in Chapter 2, Planning for Growth, Table 2.20).*

A minimum 48m wide riparian buffer strip is required in all other areas outside of development boundaries.

Where lands encompass urban and rural areas, a transitional approach from the urban riparian requirements to the rural riparian requirements may be appropriate and will be assessed on a case-by-case basis.

Notwithstanding the above, cognisance must be taken of Flood Zone A and B, as outlined in the SFRA.

See also Chapter 14 Development Management Standards (Section 14.20.5 Riparian Corridors) and the SFRA.”

Objective DMSO148 ‘Ecological Impact Assessment’

Objective DMSO154 ‘Ecological Corridors’: *“Protect and enhance the ecological corridors along the following rivers in the County by ensuring that no development takes place, outside, development boundaries within a minimum distance of 48m from each riverbank along the main channels of following rivers Liffey, Tolka, Pinkeen, Mayne, Sluice, Ward, Broadmeadow, Ballyboghil, Corduff, Matt and Delvin, Bracken River, Daws River, Richardstown River, Turvey River (see Green Infrastructure Maps). A minimum 10 m wide riparian buffer strip applies to lands within development boundaries. Additional width may be required to provide for additional protections of sensitive habitats, as appropriate.”*

Objective DMSO156 ‘Development Along Watercourses’: *“Ensure that no development, including clearance and storage of materials, takes place within 10m*

*as a minimum, measured from each bank of any river tributary or small stream or watercourse in the County (see **Green Infrastructure Maps**)."*

Objective DMSO160 'Riparian Corridors': *"Require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology"*

Objective DMSO210 'Riparian Corridors': *"Establish riparian corridors free from new development along **all significant** watercourses and streams in the County:*

*Ensure a minimum 10 m wide riparian buffer strip measured from the top of the bank either side of **all watercourses**. This minimum 10m wide riparian buffer strip applies to lands within development boundaries – i.e. within designated settlement boundaries (as per Fingal County Council's Settlement Hierarchy set out in Chapter 2, Planning for Growth, Table 2.20: Fingal Settlement Hierarchy).*

A minimum 48m wide riparian buffer strip is required in all other areas outside of development boundaries.

Where lands encompass urban and rural areas, a transitional approach from the urban riparian requirements to the rural riparian requirements may be appropriate and will be assessed on a case-by-case basis.

Notwithstanding the above, cognisance must be taken of Flood Zone A and B, as outlined in the accompanying SFRA.

See also Chapter 14, Development Management Standards (Section 14.20.5 Riparian Corridors) and the SFRA."

Access

Table 14.19 'Car Parking Standards'.

Water Services

Section 4.5.2.8 'Sustainable Urban Drainage Systems (SuDS)'; Objective IUO11 'SuDS in New Developments'; Objective DMSO203 'FCC SuDS Guidance Document'; and Appendix 11 'FCC SUDS Guidance Document'.

Greenways

Section 6.5.6.2 'Greenway Network' incl. Table 6.1 and Policy CMP8 'Greenway Network'

Strategic Flood Risk Assessment for the Fingal Development Plan 2023-2029, incl. Section 6.1

5.3. Other

Fingal County Council "Green/ Blue Infrastructure for Development Guidance Note Final Rev0 December 2020"

Fingal County Council 'The Fingal Coastal Way Feasibility Study Options Assessment Report November 2022' incl. EPR-PC-Map 12

5.4. Natural Heritage Designations

- 5.4.1. Rogerstown Estuary SAC and Rogerstown Estuary SPA are approximately 0.7km to the north-west.

6.0 Environmental Impact Assessment screening

- 6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 & 2 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of First-Party Appeal

- 7.1.1. A first-party appeal was received from Purser consultants on behalf of the appellant, the main points of which I summarise below:
- Introduction: Refusal is without basis. Issues cited were factually incorrect, resolvable by condition, clarification or minor refinement; or already addressed in the application. The Authority should have sought further information. Refusal

reasons were not conveyed to applicant at pre-planning stage, and proposal did not change materially from pre-planning. Within the appeal, the proposal remains unchanged but applicant provides a revised landscape plan and additional documentation;

- Refusal reason 1 / Shared surface access: Refusal reason is based on inaccuracy and is unsubstantiated. There is no 50m boundary wall. There are 22.5m garden walls. All walls/gables are set back 0.9m from the shared surface. An RSA was submitted; design issues identified were addressed in the layout. RSA did not find issue with shared surface. Council Transportation Section raised no issue subject to standard technical conditions relating to access, setbacks, storage, audits and construction management, none of which raised concern with the shared surface. Minor enhancements (buffer either side, surface treatment, ramp at entrance) further reinforce safety including addition of a footpath by condition if required. The review of the decision submitted with the appeal (by P. Herr & Associates) states the shared surface is appropriate for a development of 18 dwellings and is below the accepted threshold of 25 no. dwellings as per the Sustainable Residential Development Guidelines 2009; no guidance prescribes a maximum length for shared surfaces. The forward visibility consistent with DMURS is available;
- Refusal reason 2 / Public open space design: The open space as submitted was appropriate. Notwithstanding, applicant has introduced further refinement in the revised landscape plan to address the Authority's issues. Wheelie-bin collection area has been removed; seating is relocated outside the attenuation footprint; and additional seating/play equipment incorporated. The pumping station is primarily underground with a minor edge kiosk beside the access for maintenance and screened by planting as dictated by Irish Water requirements. The open space accords with DMSO63, DMSO64 and Section 14.13.3.1. Refusal is without basis and does not provide a reasonable basis for refusal;
- Response to Parks report: Whilst the issues raised did not form part of the reason for refusal, each item has been considered and addressed in the revised landscape and boundary treatment plans. Appeal addresses details of townland boundaries; the 'watercourse riparian corridor'; public open space area; boundary treatments; landscape plan; lighting & trees; clearances to services &

edges; tree pits & verge widths; railings; benches; planting; and eastern site boundary trees. A visual inspection/tree survey was undertaken for the EclA;

- Refusal reason 3 / Ecological impact assessment: Application was prepared with input from project ecologist (Moore Group). Application was informed by a NIS. No EclA was deemed necessary or requested at pre-planning. Notwithstanding, a full EclA is enclosed with the appeal. It confirms the site comprises improved grassland of negligible ecological value, and is of no ecological significance beyond a local level. The southern ditch is not a classified watercourse and there will be no significant adverse impact. Appropriate mitigation (eg. Silt fencing) is incorporated. All boundary trees and hedges will be protected. Proposal will not result in significant adverse effects on the riparian corridor or wider ecological environment subject to standard construction safeguards. Refusal reason is fully addressed;
- Revised NIS: A revised NIS is enclosed with the appeal. It includes a silt fence along the perimeter fence of the drainage ditch during construction. AA screening remains unchanged. NIS concludes proposal will not adversely affect the integrity of Rogerstown Estuary SAC or Rogerstown Estuary SPA;
- Site-specific flood risk assessment: A SSFRA is enclosed with the appeal. It confirms the southern ditch is a minor land drain; not an active stream/ watercourse but rather an old agricultural drain with a flat gradient, undulating bed levels, and heavy vegetation; is not a watercourse of flood risk concern; and the site is not at risk of fluvial, pluvial or groundwater flooding. Standard SuDS and drainage design provide full attenuation. Review of Fingal SFRA indicates potential susceptibility to fluvial flooding, however the site-specific survey demonstrates only small, unlinked pockets at the extreme southern edge of the site could be affected (2% of site area or 105sqm). The development will not increase flood risk elsewhere as there is adequate residual capacity within the ditch. Development satisfies the justification test;
- Context: Appeal sets out details of site, surrounding area and policy context;
- Other issues: Appeal addresses other items in the Authority internal reports including materials; visual & residential amenity; cycle storage and lighting.

7.1.2. The appeal includes an Ecological Impact Assessment (EclA); Natura Impact Assessment (NIS); Flood Risk Assessment Report (SSFRA); 2 no. engineering response letters. I summarise the engineering letters as follows:

P. Herr & Associates letter

7.1.3. The letter is from the applicant's engineer who prepared the Stage 1 RSA. It states the audit did not identify as issues the reasons raised in refusal reason 1 and that the shared surface is appropriate. The shared surface is below the accepted threshold of 25 no. dwellings as per the Sustainable Residential Development Guidelines 2009. The adjacent wall would only be an issue if it ran the full length of the access. Sufficient forward visibility is available. Distinctive surface materials are proposed.

2HQ Consulting Engineers letter

7.1.4. The appeal includes a letter from a second engineer. It states generally that refusal reason 1 was not raised by the Transportation Section. Regarding refusal reason 3, at pre-planning the applicant's team were informed the adjacent ditch was not a watercourse and that there was no riparian requirement. Letter sets out details of the ditch and states that given its function from an engineering perspective it should not be considered to be a watercourse with a riparian environment as it is not an active watercourse but an old artificial drain, and that ecological enhancement can be achieved with a narrower strip. It also states that there is no meaningful floodplain to protect associated with the drain. Section drawings are provided.

7.2. Planning Authority Response

7.2.1. The Planning Authority response stated no further comment, and requested the Commission uphold the decision. Financial contributions are recommended in the event permission is granted.

7.3. Observations

7.3.1. Three observations were received by the Commission, from Selina Rickard; Alberto Ciaramella & Bhanita Ray; Aidan & Elaine Gallagher; and Brian & Camille Geraghty, summarised as follows:

Selina Rickard:

- Wishes to object to the first-party appeal. Primary concerns are child safety, traffic management, and protection of vulnerable students in the school. Appeal does not adequately address these concerns or resolve the refusal reasons;
- Child safety, construction traffic, and school proximity: Beaverstown Road is heavily congested at school opening/closing times. Proposal will increase traffic. The refusal cites serious safety concerns with the shared surface for pedestrians. Heavy good vehicles (HGVs) to/from the site during school hours would endanger children. Applicant proposes early starts (07:00) when children are being dropped off; this is unacceptable and fails to comply with Development Plan Section 14.20.17 in terms of noise which requires mitigation of construction noise to protect sensitive receptors;
- Impact on autistic students & sensory spaces: Observation refers to observer's child attending the school autism unit. Proposal adjoins the school sensory garden. Years of construction activity would compromise usability of this facility. The ecological and environmental assessments make no reference to sensitive human receptors in the school. Allowing a development that undermines such a facility is inconsistent with the Education for Persons with Special Educational Needs (EPSEN) Act 2004 in relation to children with special needs access to appropriate educational environments;
- Lack of amenities and Infrastructure pressure: Proposal fails to provide necessary amenities. Development Plan Objective SPQHO38 requires dwellings at sustainable densities to integrate with community services;
- Need for child safety and school impact assessment: No child safety or school impact assessment has been carried out. Development Plan Objective DMSO5 requires infill developments to respect & protect adjoining community facilities. Appeal does not include assessment of the impact on school operations, vulnerable children, or safety at the school gate which is a fundamental failing;
- Requested conditions: Observation sets out conditions that should apply if permission is granted: timing of construction traffic, deliveries, construction start times; air quality monitoring & reporting to the school; traffic management including controlled pedestrian crossing; reduction in number of units.

- These Observers reside at 77-79 Somerton and submitted a common template observation, which I summarise as follows:
- Introduction: Observations support refusal. Observers are adjoining residents. The appeal raises matters of public safety, residential amenity, environmental protection, infrastructure capacity, flood risk, transport, street design, and biodiversity and should be dismissed. Observations set out details of site context and policy & legal framework;
- Refusal reason 1: Internal layout hinges on a long shared surface (approx. 50m) with a 2m high boundary wall. This removes intervisibility/passive surveillance between dwellings and access users. It provides no continuous dedicated footpath/safe route contrary to DMURS. It channels vehicles toward a single access adjacent the school where peak hour conflict is greatest. A long uninterrupted shared surface without clear pedestrian protection is discouraged in DMURS, particularly adjacent a school. The high wall exacerbates safety risks. This is a design defect that cannot be rectified by condition. A fundamental redesign with dedicated pedestrian routes and appropriate overlooking is required;
- Refusal reason 2: The main public open space is compromised by the pumping station and wheelie bin collection area adjacent a seating area and conflicts with Development Plan Section 14.13.3.1 and Objective DMSO63. A compliant scheme must relocate utility infrastructure away from the public open space;
- Refusal reason 3: No EclA was submitted. Site and environs support protected species (bats, frogs) and regular wild bird activity; the loss of hedgerows, and works near the southern drainage ditch, present a risk. Given the proximity to Rogerstown and Malahide Estuaries, and the riparian corridor on the southern boundary, the absence of an EclA is a deficiency. A full EclA is required;
- Refusal reason 4: Site interacts with a drainage ditch on the southern boundary. Observations refer to flooding on Beaverstown Road linked to pumping infrastructure. Without a site-specific flood risk assessment the proposal is prejudicial to public health. SSFRA and riparian setback are required;

- Overlooking, overbearing, daylight/sunlight, and separation distances: The terrace of 6 no. houses overlooks and overbears the rear gardens and living spaces of No. 77 and 79 Somerton. Given relative ground levels and proposed higher ridge lines, privacy loss and shadowing will be pronounced. Proposal places the bulk of the required 22m first-floor separation distance within existing residents' gardens which results in an unbalanced relationship and significant overlooking. No daylight/sunlight/shadow assessment is submitted to demonstrate compliance with recognised guidance; this fails the Development Plan test to safeguard neighbour amenity. Proposal should reorientate the terraces; provide 11m minimum garden depths; and submit a full sunlight/daylight/shadow assessment;
- Boundary ownership, hedgerow removal, and requested buffer: Applicant has no entitlement to rely on neighbours' fence for their boundary treatment. Previous unilateral removal of hedgerow resulted in pest infestation. Best practice and Development Plan objectives require new boundaries to be constructed wholly in the applicant's site; provide a minimum 1m planted setback along the eastern boundary; and to reinstate the removed hedgerow;
- Existing drainage & foul issues: There are recurring foul drainage blockages in the gardens of No. 77-79 Somerton over recent years. The cumulative effect of the proposal on constrained infrastructure has not been assessed. The Development Plan requires adequacy of water and wastewater capacity prior to permission being granted. Without this permission would be premature;
- Parking & school area safety: Only 19 no. car spaces for 18 no. houses and limited visitor parking will give rise to overspill parking in the area. In a school environment unmanaged overspill, obstructed sightlines, and shared surfaces increase risk to children & vulnerable users. The layout is not safe;
- Flood risk & water management: Any future application must provide a site-specific flood risk assessment, demonstrate full compliance with the SuDS hierarchy, and confirm Irish Water foul and potable capacity. Private pumping arrangements should be minimised;

- Transport & street design: Principles of Pedestrian priority, visibility & surveillance, and segregation of cyclists should be applied. Speed managing geometry should be applied. Internal boundaries should be kept low;
- Appropriate Assessment versus Ecological Impact Assessment: The NIS does not replace the need for EclA. Works adjacent to a ditch/riparian corridor, past hedgerow removal, lighting effects on bats, and vegetation loss within private gardens all require EclA-level scoping and mitigation;
- Local planning context & precedent: Decisions on residential schemes in Donabate have emphasised school safeguarding, open space, passive surveillance & pedestrian priority, and flood risk;
- Conditions: Observations request that should the Commission grant permission a number of conditions be attached. These relate to: comprehensive redesign of the internal layout; relocation & redesign of open space; full EclA and CEMP; SSFRA; residential amenity safeguards; boundary treatment changes; network capacity confirmation from Irish Water, Construction Traffic Management Plan; and changes to parking and mobility proposals.

7.3.2. In the interests of clarity I note the submissions' use of the acronym 'EIA' refers to Ecological Impact Assessment rather than Environmental Impact Assessment.

7.4. Further Responses

7.4.1. None.

8.0 Assessment

8.1.1. Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file including all of the submissions received in relation to the appeal; and having inspected the area within and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are as follows:

- Refusal reason 1 (shared surface access road);
- Refusal reason 2 (open space);

- Refusal reason 3 (impact on riparian corridor / ecological environment);
- Refusal reason 4 (flood risk);
- Related matters raised in the course of the appeal.

8.2. Principle of Development

8.2.1. The proposed development comprises 18 no. dwellings on lands zoned 'RS – Residential'. Residential development is 'Permitted in Principle' in this zone. I am satisfied the development is acceptable in principle subject to the considerations below.

8.3. Reason 1 (shared surface access road)

- 8.3.1. I consider that the primary concerns of the Planning Authority in this regard were (1) safety concerns as a result of lack of visibility, passive surveillance and lighting for pedestrians, particularly as a result of the walls adjacent the shared surface, and (2) the length of the shared surface in the absence of adequate pedestrian protections.
- 8.3.2. The Planner Report stated that whilst provision of a pedestrian path alongside the shared surface could help address concerns, the side walls remained the primary issue and that the proposal in its current form was not acceptable. The Planning Authority Transportation Planning report raised no specific concerns in these regards. The submitted Road Safety Audit raised no issues in this regard.
- 8.3.3. The appeal includes a letter from the applicant's engineer in this regard (P. Herr & Associates). It states the appellant's road safety audit team reviewed the refusal reason and confirm the shared surface is appropriate; there are no guidelines for a maximum allowable shared surface length; the length of the boundary walls alongside the shared surface would only be a road safety hazard if they extended the full length of the road; and that appropriate forward visibility and intervisibility is available between drivers and pedestrians.
- 8.3.4. The appeal also proposes design enhancements comprising surface treatments and ramped pedestrians crossing at the entrance, and also that conditions be applied for the provision of a footpath between the 'walled' section of the access.

Policy context

- 8.3.5. The Development Plan provides minimal guidance on shared surfaces. Sections 14.2.4 'Safety and Security' and 14.4.1 'Healthy Placemaking: Design Criteria' highlight the relationship between buildings and their adjoining spaces in terms of safety and passive surveillance.
- 8.3.6. The Development Plan references the provisions of the Quality Housing for Sustainable Communities Best Practice Guidelines 2007 in this regard. In relation to shared-surfaces the Guidelines state that particular attention should be paid to the design of entry points to shared surfaces or home-zones, including kerb radii, ramps, surface materials, colours and design and layout measures to restrict maximum vehicle speeds to safe levels.
- 8.3.7. The Development Plan also references the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009. Whilst those guidelines have been revoked, the Development Plan seeks to ensure residential development accords with it. Section 3.18 of the Guidelines set out details of home-zones, and states that shared vehicle / pedestrian surfaces can serve up to 25 dwellings where there is one point of access.
- 8.3.8. DMURS states that shared surface streets are particularly effective at calming traffic; perform well in terms of safety; and are highly desirable where movement priorities are low and there is a high place value in promoting more liveable streets. The guidance specifically states that designers should minimise the width of the vehicular carriageway and that the total carriageway width should not exceed 4.8m. For visually-impaired users however DMURS states that distinct zones that delineate pedestrian only space from the shared space should be created, and that design measures such as verges that act as refuge zones allowing pedestrians to step on and off the carriageway to let car pass should be applied; the document refers to Figure 4.51 which shows informal space to step in, however no dimensions or other requirements are indicated.

Assessment

- 8.3.9. I have had regard to the Development Plan, referenced national guidelines, and DMURS in this regard, in particular Section 4.3.4 'Pedestrian and Shared Surface'.
- 8.3.10. Whilst I am satisfied the shared surface design broadly aligns with DMURS, no clear stand-in spaces for pedestrians, buggies, or less abled users are proposed. The

layout proposes hedging between the shared space and the adjacent dwellings (approx. 0.7m wide on both sides) which acts as a buffer to the adjacent dwellings. Whilst I consider this buffer is warranted given the proximity to the adjacent ground floor windows, I also consider that stand-in spaces for non-vehicular road users should be provided. I note again the appellant's willingness to provide for a footpath in this location. Given the proposed layout, including the access, buffers, and rear garden accesses, I am satisfied stand-in spaces or a footpath as appropriate alongside buffer planting can be provided. A revised layout in this regard should be agreed by condition.

- 8.3.11. Accordingly, I am satisfied refusal is not warranted in this regard, subject to conditions for the detailed design of the access layout, design and finishes.

Visibility, passive surveillance, and public lighting

- 8.3.12. Regarding visibility and passive surveillance, I have reviewed the submitted drawings and Design Statement. In the proposed layout pedestrians would pass through a section of approximately 20m along the shared surface between the westernmost row of dwellings which would have minimal overlooking. Either side of the access would comprise the sides of the adjacent dwellings and rear garden walls of 1.8m height. The only windows overlooking the space would be opaque windows at ground and first floor into a hall and bathroom respectively. Overall, I am not satisfied the proposed arrangement warrants refusal in this regard. I am satisfied the distance is relatively short and the area is visible from other dwellings and the road. I am also satisfied appropriate forward visibility is available for vehicles.
- 8.3.13. Regarding public lighting, details of lighting are included in the submitted landscaping proposals. Lighting columns are proposed, including along the referenced stretch of shared surface between the proposed dwellings. The Planning Authority Public Lighting and Parks Sections recommended further information and set out detailed lighting requirements. Given the information submitted, I am satisfied appropriate details of lighting for the development can be agreed, including the nature and placement of lighting infrastructure.
- 8.3.14. Accordingly, I am satisfied that refusal in this regard is not warranted, subject to conditions as set out above.

8.4. Reason 2 (open space)

- 8.4.1. I note the refusal reason and related points from the Planner and Parks & Green Infrastructure reports, in particular the significant details set out in the Parks report. I consider the primary issue in the refusal reason is the design of the public open space, rather than the quantum proposed, however I consider both issues below.

Quantum of open space

- 8.4.2. The proposed public open space is stated as measuring 563sqm. The site area is stated as 0.52ha (5,200sqm).
- 8.4.3. The Development Plan sets out a number of requirements relating to public open space provision. Section 14.6.5 states that appropriate provision must be made for public open space in all new developments, and that there is a target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply. Table 14.12 indicates minimum public open space standards of 12% on infill/brownfield sites and 12-15% on greenfield/LAP lands. Applying the above gives a required provision in this case of 624-780sqm, which equates to a shortfall of 217sqm (12sqm per dwelling) at the target upper end. Section 14.6.5 and Objective DMSO53 provide for a financial contribution in lieu of public open space. Given the Development Plan provisions for a contribution in lieu, and having regard to the open space proposed, I am satisfied a contribution in lieu of the shortfall is acceptable.

Open space design

Pump station & bin storage

- 8.4.4. Regarding the open space design, I note the Planner Report and Parks Department points regarding the location of the foul pump station kiosk and bin collection area within the open space. Given the proposed open space design, whilst I accept the concerns regarding the proposed kiosk and bin collection locations, as well as points of landscaping details, I am not satisfied these matters warrant refusal. I am satisfied these design details and their impact on the open space, including in terms of the layout and placement of water & drainage infrastructure, landscaping, planting and space for bins can be satisfactorily mitigated by conditions for the agreement of detailed open space and landscaping design.

Underground attenuation

- 8.4.5. Regarding SuDS and the matter of locating an underground attenuation tank on a large portion of public open space, the Planning Authority Water Services Department report raised no issue in this regard.
- 8.4.6. I note the provisions of Development Plan Section 4.5.2.8 'Sustainable Urban Drainage Systems (SuDS)', Objective IUO11 'SuDS in New Developments', Objective DMSO203 'FCC SuDS Guidance Document', and Appendix 11 'FCC SUDS Guidance Document'. Those provisions state generally that underground tanked systems are the least favoured means for surface water management and shall only be used when green solution have proven not feasible. Appendix 11 states that drainage systems shall use green, more natural landscaped above ground solutions as opposed to underground attenuation tanks.
- 8.4.7. The Planning Authority Water Services report raised no issue in this regard with the exception of details of the relationship of the development to the adjacent stream.
- 8.4.8. The applicant's Engineering Assessment Report sets out details of the proposed SuDS management train for the site. It includes a rationale and justification for the underground attenuation tank in managing excess surface water runoff (Section 3.2) and addresses Objective DMSO203. The report sets out details of the options considered (detention basin, stone attenuation beneath roadway, and stone attenuation within the road and each dwelling) and why each was considered to not be possible or feasible within the tight site constraints.
- 8.4.9. More broadly, the Engineering Assessment Report and submitted engineering drawings set out details of the proposed SuDS management train comprising permeable paving for parking spaces; stone layer for roof areas; and porous asphalt and gravel filter drain for the shared surface. These features drain to ground or the on-site attenuation and on to the existing surface water mains. Flow control, overflow, interceptor, and climate change provision are incorporated.
- 8.4.10. The Development Plan describes the proposed approach as the least favoured option, however provides scope for this approach to be taken when green solutions have proven to not be feasible. I am satisfied that on balance the proposal accords with the Development Plan, and that matters of detail can be addressed by standard

conditions, including SuDS, management/taking in charge matters, and matters raised in the Water Services report.

Section 14.13.3.1 & Objective DMSO63

- 8.4.11. Regarding the refusal reason reference to Development Plan Section 14.13.3.1 and Objective DMSO63 'Location of Open Space', Section 14.13.3.1 states, amongst other things, that public open spaces should be overlooked and designed in such a way that anti-social behaviour is reduced through passive surveillance. Objective DMSO63 seeks to '*ensure open spaces are not located to the side or the rear of housing units*'. Within the proposed layout, 4 no. dwellings back onto the proposed public open space, and 6 no. dwelling face onto the space on 2 no. of the 3 sides. The space is also adjacent the existing school.
- 8.4.12. I note related points made in the Planner and Parks reports. I am satisfied the space is overlooked and designed in such a way that anti-social behaviour is reduced through passive surveillance. I note the wording of Objective DMSO63, however I am satisfied the layout generally complies with Section 14.13.3.1 and responds to the substantive point of ensuring the space is overlooked and anti-social behaviour is reduced through passive surveillance. Overall I do not consider it reasonable to refuse the proposal on grounds that the space is located to the side or the rear of 4 no. housing units when it is overlooked by 6 no. I consider the reason for this is the layout seeking to address the public road whilst also addressing the public open space and accordingly I am satisfied that layout achieves a reasonable balance in this regard.

Revised layout

- 8.4.13. As part of the appeal the appellant submits a revised landscape design for the proposed public open space. Relatively minor changes are set out, with the main change being the omission of the proposed bin storage area. I note the swept path analysis submitted. I consider these revisions would improve the amenity and usability of the open space, whilst also providing for waste collection within the proposed development. I am satisfied the revised plan is acceptable, however that the above-referenced conditions remain necessary.

8.5. Reason 3 (Impact on riparian corridor / ecological environment)

- 8.5.1. The third refusal reason was on grounds that the application was not accompanied by an Ecological Impact Assessment (EclA), and that in the absence of this the Authority was not satisfied that development would not result in significant adverse impact on the riparian corridor or the wider ecological environment. I note that no Development Plan policy, objective or other provision was referenced in the reason.
- 8.5.2. The Planner Report stated generally that the boundary of the proposed houses is on the riparian sloped area, and that further consideration should be given for the location of the side boundary of the adjacent houses. It also stated that a comprehensive EclA should be prepared to ensure potential impacts on biodiversity receptors other than European Sites are considered.
- 8.5.3. The Parks & Green Infrastructure Division report stated that the Development Plan states that a riparian / ecological corridor should be established either side of all watercourses; that the proposed houses appear to be on the riparian sloped area; and that a 10m buffer should be shown on revised layouts.
- 8.5.4. A number of Development Plan provisions relate to this matter. I have had regard to Development Plan Policy GINHP7 'Protection'; Objective DMSO160 'Riparian Corridors'; IUO26 'Riparian Corridors'; Objective DMSO210 'Riparian Corridors'. I have also had regard to Objective DMSO156 'Development Along Watercourses', Section 9.6.8 'Ecological Corridors and Stepping-Stones Including Trees and Hedgerows'; Objective IUO14 'Buffer Zones for Riparian Corridors'; and Policy IUP16 'IFI Guidelines Planning for Watercourses in the Urban Environment 2020'.

Adjacent drainage channel

- 8.5.5. As stated above, having visited the site I note there is a drainage channel adjacent the southern boundary of the site within the school grounds. The drain edge is approximately 1m outside the site and the drain is approx. 1.5m wide. At the time of my site visit the sides of the channel were overgrown with briars and the drain held standing water. I note the appellant stated the drain was dry at the time the application was lodged. Having visited the site and surrounding area, and having reviewed publicly available EPA mapping, I am satisfied the drain is hydrologically connected to the Rahillion stream/river to the west.

Ecological impact assessment

- 8.5.6. I have reviewed the Ecological Impact Assessment (EclA) and revised NIS submitted with the appeal. The EclA considers the ecological value of the site and adjacent drain. It states that it has limited floral composition and identifies the local / typical growth along it, and states that the drain is not accessible to otters. The EclA notes the drain is separated from watercourses west of Beavertown Road by a culvert.
- 8.5.7. Development Plan Section 9.6.5 'Rare and Protected Species and their Habitats' states that an Ecological Impact Assessment shall be required for any proposed development likely to have a significant impact on species protected by law and their habitats. I also note the related provisions of Policy GINHP18 'Species Protection' and Objective DMSO148 'Ecological Impact Assessment'. Having visited the site and having regard to the available information on the file, I do not consider the subject site or adjacent drain are likely to have ecological significance beyond the immediate locality to warrant submission of an Ecological Impact Assessment or to warrant grounds for refusal in the context of Development Plan provisions.

Riparian corridor

- 8.5.8. The appellant states the referenced feature adjacent the site is an historic agricultural drain / ditch and not a classified watercourse, and that accordingly the Development Plan requirement for a riparian setback does not arise. The appeal also states this was confirmed at pre-planning by the Planning Authority.
- 8.5.9. In relation to impacts on the 'ecological environment' of the drain, no works proposed would impact the drain directly, however the applicant proposes to replace the adjacent fence. I note the findings of the AA Screening report and NIS submitted with the application. I am satisfied there would be no significant impacts on the drain subject to conditions as recommended by the Water Services section as above.
- 8.5.10. In relation to a requirement for a buffer or setback from the drain, I consider there is a lack of clarity between the various Development Plan provisions in this regard. Development Plan Section 9.6.8 states that a buffer of minimum 10m shall apply along small streams and drains. In turn, Objectives IUO26 and DMSO210 state that they relate to all significant watercourses, yet also states that they require a minimum 10m wide riparian buffer strip either side of all watercourses. Objective DMSO156 seeks to ensure no development takes place within 10m as a minimum of

any watercourse in the County, but refers to the Green Infrastructure Maps which show only rivers, ecological corridors along rivers, ecological buffer zones, and European Sites and does not indicate the adjacent drain. The term 'watercourse' is not clearly defined in the Development Plan or Inland Fisheries Ireland Guidelines.

- 8.5.11. The submitted plans indicate the site is approximately 1m from the drain. A proposed setback of approximately 2m from the site boundary alongside the drain is indicated (providing a total setback of approximately 3m). I consider that achieving the referenced 10m setback would require omission of 2 no. of the proposed dwellings.
- 8.5.12. Whilst I acknowledge the lack of clarity in the wording of the Development Plan, I am satisfied that a requirement of a 10m minimum set back or buffer free of development from the adjacent drain is stated reasonably clearly in Section 9.6.8. I am not satisfied however that the drain could be considered to be a 'significant watercourse' (as per Objectives IUO26 and DMSO201) or to be Green Infrastructure as referenced under Objective DMSO156, but is instead a drain as per Section 9.6.8. I consider that there is a lack of clarity in the Development Plan in relation to requirements for a setback in this regard. The applicant has not clearly addressed these requirements of the Development Plan. Given the fact that the referenced feature is a drain I am satisfied the setback proposed is reasonable, and broadly aligns with the stated objectives of Development Plan Objectives IUO26 and DMSO210, however I also consider that the setback as proposed **conflicts materially** with the wording of Development Plan Section 9.6.8 in that the indicated set-back does not provide for the full 10m stated.

Material Contravention

- 8.5.13. The Planning Authority did not specifically refuse the application in this regard or state the proposed development would materially contravene the Development Plan in this regard. **Section 37(2)(a) of the Act** provides for the Board in determining an appeal to grant permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan the Board may only grant permission in accordance with paragraph 37(2)(a) in specific circumstances. Whilst Section 37(2) of the Act reads that subsection (b) only applies where a planning authority has

decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, a broader interpretation has been taken by the Courts. As such, whilst the Planning Authority did not refuse permission on grounds of the development materially contravening these Development Plan provisions, I consider that Section 37(2)(a) and (b) should be applied in this case.

8.6. In this context, I consider criterion (ii) of subsection (b) is applicable – that “*there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned*”. In this regard, I consider that Development Plan Objectives IUO26, DMSO156, DMSO210 and Section 9.6.8 conflict in relation to what watercourses the 10m setback requirement applies to. My main consideration in this regard is that application of these requirements as worded would give rise to conflicting assessment outcomes in this case.

8.7. In this context I am satisfied the nature of development proposed otherwise accords with the provisions of the Development Plan and national guidelines for the site and surrounding context, including in terms of character. As such, having regard to the land use zoning objective for the site and the Core Strategy for the area, I do not consider that refusal on these grounds is warranted.

Revised layout

8.7.1. Minimal changes in the above regard are included within the revised drawings submitted with the appeal.

8.8. **Reason 4 (flood risk)**

8.8.1. Refusal reason 4 generally stated the applicant failed to adequately address flood risk associated with the ditch along the southern boundary as mentioned in the Development Plan Strategic Flood Risk Assessment, and that in the absence of a sufficiently detailed site-specific flood risk assessment the development would be prejudicial to public health.

Application

8.8.2. The Planner Report noted the recommendations of the Water Services report but made no other reference to flood risk. The Water Services report stated the

Development Plan SFRA indicates a risk of flooding in the ditch along the southern boundary of the site, and that the applicant should submit a SSFRA.

- 8.8.3. I have reviewed the County Development Plan SFRA (including Map 13) and both Development Plan land use zoning maps (online and Green Infrastructure Map Sheet 16). The Development Plan indicates pockets of Flood Zone A and B along the adjacent drain, in particular at the south-west edge of the site. I am satisfied the available mapping generally indicates that 2 no. dwellings and the access road along the southern boundary of the site would be impacted by Flood Zones A and B.
- 8.8.4. Regarding the application, I consider this matter was not adequately addressed in the information submitted with the application, and given the flood risk indicated within the County Development Plan SFRA; the layout of the dwellings; and the lack of consideration of potential impacts on the adjacent school in terms of flood water displacement, I am satisfied that permission should not have been granted in the absence of the required assessment of the proposed development in this regard.

Appeal

- 8.8.5. Regarding the information submitted with the appeal, the appeal states the submitted Flood Risk Assessment for the development indicates the adjacent drain is not a watercourse of flood risk concern, and that the site is not at risk of fluvial, pluvial or groundwater flooding. It states that review of the Fingal SFRA indicates potential susceptibility to fluvial flooding at the site, but that only small, unlinked pockets at the extreme southern edge of the site could be affected (stated as 2% of site area or 105sqm). It states the development will not increase flood risk elsewhere as there is adequate residual capacity within the ditch.
- 8.8.6. The SSFRA (Section 6.1) also states the site may be susceptible to small pockets of fluvial flooding up to a level of +3.5m AOD. It states the total volume of flooding equates to a very modest 21 cubic metres (Section 6.3). It states there will be no material displacement of flood water given the isolated nature of areas; associated with small volume; and the available capacity within the ditch. The applicant submits some details of proposed site levels.

Assessment

- 8.8.7. In this regard, having reviewed the existing site levels submitted, the SFRA, and SSFRA I consider the assessment of flood risk in pockets up to a level of +3.5m is

reasonable, and that the proposed development ground levels are well above this (approx. +4.25/4.3m AOD). Regarding the potential for the development to increase flood risk elsewhere, I note the existing school adjacent to the south would be below the ground level of the proposed development. Given the proximity and ground level of the adjacent school, and the modest predicted displacement volumes arising from the proposed development (21m³), I am satisfied the appellant has satisfactorily addressed this matter as required by the Development Plan and national guidelines. I am satisfied the stated displacement volume can be accommodated within the existing drain and proposed setback given the length of the ditch (approx. 100m) and width of the setback proposed from it (2m), and the levels proposed (Drw. No. 009 Rev. PL1 by 2HQ Engineers)).

- 8.8.8. Regarding conditions, I note the Flood Risk Assessment Report from the appellant's engineers states it includes extracts from the Fingal County Development Plan SFRA. However, the report shows extracts from the Development Plan online interactive map viewer; this shows a lower-resolution representation of flood risk at the site than the Development Plan SFRA (Map 13). The report appears to base its assessment of the area of the site affected and the resulting displacement volume on the online interactive map viewer. Given the proximity of the school, I consider that a revised SSFRA is warranted to be agreed by condition, to include a revised site layout plan which illustrates final ground levels within the proposed setback from the drain which clearly demonstrates sufficient space to accommodate the displacement volumes envisaged.

Revised layout

- 8.8.9. Revised drawings are submitted, however changes in the above regard are minimal.

8.9. Related matters raised in the course of the appeal

Traffic & traffic safety

- 8.9.1. The application was not refused on grounds of traffic and traffic safety. A number of concerns were raised in the Observations on file in relation to traffic impact; child safety; proximity of other accesses; overspill parking; and the proximity to and impact of the school and related conditions.

- 8.9.2. The Planner Report stated that details of pedestrian connectivity at the proposed access were required to be agreed. The Transportation Planning report stated no objection subject to conditions; it stated that conditions were required for details of works to the public footpath; details of cycle stores; and preparation of a Stage 2/3 RSA. The Public Lighting section recommended standard conditions.
- 8.9.3. The applicant submitted engineering and landscape drawings including sightlines, lighting and swept path analysis. The applicant also submitted a Stage 1 RSA and an Engineering Assessment Report.
- 8.9.4. Regarding traffic interactions with the school, the school entrance is approx. 80m to the south. The school has a drop-off area within its grounds. Road markings along Beaverstown Road are in place, and the road is straight with good visibility.
- 8.9.5. The access to Beaverstown Orchard is across the road from the site. The existing and proposed accesses would have good visibility of each other. No significant issues in this regard were raised in the RSA or by the Transportation Section.
- 8.9.6. Car parking equating to 1 space per dwelling plus 1 shared / visitor space is proposed (19 no. spaces in total). Having regard to the provisions of the Development Plan I am satisfied the proposed parking is acceptable.
- 8.9.7. In summary, noting the concerns raised within the Observations, I am satisfied the proposed access arrangements and resulting impact on traffic and traffic safety are broadly acceptable subject to conditions.
- 8.9.8. In relation to conditions, the Planning Authority internal reports stated that details of pedestrian connectivity at the proposed access and works to the public footpath; and preparation of a Stage 2/3 RSA were required to be agreed. I am satisfied that conditions in these regards are warranted.

Emerging Preferred Route Fingal Coastal Way – New Issue

- 8.9.9. The Planner Report stated the proposal should be amended to provide a 4 - 4.7m setback along Beaverstown Road to provide for the Emerging Preferred Route Fingal Coastal Way. The Transportation Planning report also stated that a setback to provide for the Emerging Preferred Route Fingal Coastal Way was required.
- 8.9.10. Development Plan Section 6.5.6.2 'Greenway Network' states the Council will continue to progress Greenway projects during the lifetime of the Plan. 'Table 6.1

'Greenways/High Quality Cycling and Walking Routes' identifies the Fingal Coastal Way. Policy CMP8 'Greenway Network' seeks to secure development of an expanded Greenway network in collaboration with adjoining landowners. Limited other details of the greenway including a required setback are set out in the Plan.

- 8.9.11. Publicly available information on the project from the County Council website indicates public consultation on the emerging preferred route ended in 2022. The information indicates proposals for a 5.5m carriageway plus a 3.0m greenway outside the subject site (Drawing EPR-PC-MAP-LT-12 Donabate Sections 1). This indicates that a corridor of approx. 8.5m minimum is proposed, with additional space of approx. 1.2m for ancillary space. I consider the available information indicates a total road outside the site inclusive of the greenway is approx. 9.7m.
- 8.9.12. Beaverstown Road outside the site varies in width from approx. 7.8 – 9.0m. The site layout includes a setback from the road of approx. 2.0m. Inside this there would be the boundary railing and a planting strip of approx. 3m. However, neither the application or appeal clearly address provision of a setback / buffer. No drawings are provided to show how the proposed development including the access layout would integrate with the future greenway.
- 8.9.13. The Commission may be inclined to seek submissions from the Planning Authority and appellant in this regard, however I consider this is not required to make a decision.
- 8.9.14. The Planning Authority reports do not provide a clear rationale for the specific buffer width stated (4-4.7m). Given the existing road dimensions, and the proposed 2m setback, I am satisfied the proposed development provides sufficient space for the future road and greenway width as reference above. I consider that a condition is warranted for the agreement of final layout, access and boundaries arrangements.

Amenity

- 8.9.15. I note concerns raised in the Observations on file in relation to potential impacts on existing residential amenity, in particular dwellings in the Somerton estate (specifically Nos. 78, 79 and 80). I also note the Planner Report points that in its current form the proposal would have a significant impact on the area due to overall scale and intensity of development; that the layout represents an over-intensification

of the site and would give rise to concerns of overdevelopment; and that the proposed development is not considered sustainable.

- 8.9.16. Regarding Somerton, of the adjacent dwellings in that estate, only the rear of No. 78 faces directly toward the proposed dwellings. The separation distances proposed are over 22m at first floor. The proposed rear gardens generally meet Development Plan requirements in terms of dimensions. The existing and proposed dwellings are 2-storey. Whilst I acknowledge that a sunlight, daylight and overshadowing report is not submitted, given the form, scale, orientation and layout of existing and proposed development, I am satisfied there would be no unacceptable impacts in terms of residential amenity, including with regard to overlooking, overbearance or overshadowing, and in relation to solar panels.
- 8.9.17. Regarding Strawberry Bungalow, it is set back approx. 6m from the site boundary. The nearest proposed dwelling is also to be set back from the boundary, by approximately 2m. There is an existing wall and hedge along the site boundary at this point. Additional hedge planting is proposed also at this point. The nearest proposed dwelling is set back from the main road alongside the rear garden of Strawberry Bungalow'. Only small, opaque windows are proposed in the northern elevation of that dwelling. Whilst some impacts in terms of overshadowing of the adjacent rear garden would be expected, given the size and layout of that garden I consider the envisaged impact would be acceptable.
- 8.9.18. Regarding impacts on the adjacent school, I note the points made in the Observations on the file. I consider the primary impacts arising from the proposed development in this regard are from construction. Given the orientation and layout of the school, and considering the size and nature of the development proposed, I consider that impacts in this regard including in terms of noise, air quality and traffic can be appropriately managed by standard conditions.
- 8.9.19. Regarding noise from the existing school, I note the subject site is zoned residential; given the layout of the school and its primary orientation and layout of open space to the south and east away from the proposed houses, I consider that noise impacts arising in this regard from the school would be broadly acceptable.

Density

- 8.9.20. The Planner Report stated that in its current form the proposal would have a significant impact on the area due to overall scale and intensity of development, and that the layout represents an over-intensification of the site and gives rise to concerns of overdevelopment and is not considered sustainable.
- 8.9.21. I note the provision of the Development Plan in relation to density, form, and character of the area. In the Development Plan Donabate is a Self Sustaining Growth Town within the Metropolitan Area. The site is within the suburbs and is approximately 1.0km from Donabate train station. I have had regard to current national guidelines in this regard including the national guidelines referred to in the Development Plan. Having regard to the Compact Settlement Guidelines, I am satisfied the proposed site is in a suburban area within a Metropolitan Town and that as such densities of 35-50dpha are acceptable.
- 8.9.22. The proposal comprises 18 no. dwellings on a site of 0.52ha (approx. 34upha). I have also considered the proposed setback from the public road and adjacent drain and related Development Plan requirements in this regard. When these setbacks are taken into account the proposed density is approx. 37upha. Overall I am satisfied the proposed density is acceptable in principle at the site.

Water services

- 8.9.23. An Engineering Assessment Report and engineering drawings were submitted with the application. Foul and potable water are to connect to existing public mains. An Irish Water Confirmation of Feasibility letter is submitted which indicates water and wastewater connections are feasible without upgrade. The Water Services Department raised no issue in these regards, with the exception of the buffer associated with the foul pumping station. Development Plan Objective IUO7 states that an appropriate buffer zone is to be established around each pumping station, and that for smaller developments (less than 15 houses) a smaller buffer may be agreed. Given the size of the development and the provisions of the Development Plan I am satisfied that a reduced buffer is acceptable and can be agreed by condition. I have addressed flood risk and surface water drainage above. I am satisfied with the proposal in this regard subject to standard conditions.

Boundaries, trees & hedgerows

8.9.24. There are trees and hedgerows along part of the northern boundary. The Parks Section report stated that some of the trees were worthy of retention, and that no tree survey was submitted with the application. Impacts on trees and bats were also raised in the Observations on file. The appeal responds in this regard, and states that a visual inspection tree survey was undertaken as part of the submitted EclA. It confirms that the site is of negligible ecological value, and is of no ecological significance beyond a local level, and that all trees and hedges will be protected. The Parks Section report sought revised details of boundaries and tree planting, including in relation to the townland boundary at the north of the site. I am satisfied the proposal is acceptable in these regards, subject to agreement of details of construction works, landscaping, boundary treatments and tree planting.

Land ownership

8.9.25. I note concerns raised by Observers in relation to works proposed to shared boundaries. I have had due regard to the existing boundaries, the extent of land ownership indicated, the proposed boundary treatments and works involved as indicated in the application and appeal (including boundary plan P-L-003). On balance I consider the proposals are acceptable in this regard, subject to the attachment of conditions for the agreement of boundary details as set out above.

Construction management

8.9.26. I note the concerns raised in the Observations on file regarding construction, in particular potential impacts on the adjacent school and the construction management conditions sought. I have reviewed the application CEMP and proposed mitigation. The site is adjacent to dwellings, a school, the public road, and an open drain. I note in particular the potential impacts of construction on the adjacent school, however given the size of the school site and provision of open space within that site I am satisfied construction impacts can be appropriately managed by standard construction management and construction environment management conditions.

Conditions

8.9.27. In addition to the foregoing, should the Commission be minded to grant permission I also consider the following regarding conditions:

- NIS: Standard condition for mitigation.

- Ecology: Standard condition for mitigation.
- Materials & finishes: I note points made in the Planner Report in this regard. I am broadly satisfied that the proposed design, materials and finishes are acceptable subject to standard conditions.
- Public lighting: I note points raised by the Planning Authority including the Parks and the Public Lighting Section reports. I consider that standard conditions in this regard are required as set out above.
- Archaeology: Having regard to the submission on file from the DoHLGH, I consider that conditions for archaeological monitoring, generally as recommended by the DoHLGH are warranted.
- Management & Taking in charge: The Planning Authority internal report comments in relation to taking in charge. The Planner report stated that taking in charge proposals in relation to access were acceptable, but raised issues with the proposed landscaping and extent of attenuation under the proposed public open space. I consider that a condition relating to a management company and taking in charge are warranted.
- Naming & numbering: Standard condition.
- Part V: Standard condition;
- Commercial housing: Standard condition.
- Contributions: Standard Section 48 conditions.

9.0 **Appropriate Assessment screening**

- 9.1.1. Refer to Appendix 2 of this report. Revised public notices were issue including in relation to the revised NIS submitted with the appeal. No further correspondence is recorded on the case file.

Screening

- 9.1.2. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this screening, I conclude that it is not possible to exclude that the proposed development alone or in combination with other plans and projects will give rise to significant effects on

Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary SPA (Ref. 004015) European Sites in view of the Sites' conservation objectives. Appropriate Assessment is required. This determination is based on:

- The Zone of Influence of potential impacts;
- Information presented in the AA Screening reports and NIS submitted with the appeal;
- Qualifying interests, special conservation interest and conservation objectives of the European Sites;
- Potential hydrological pathway to European Sites via an adjacent drain.

Stage 2 Appropriate Assessment

- 9.1.3. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary SPA (Ref. 004015) European Sites in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.
- 9.1.4. Following examination, analysis and evaluation of the NIS submitted with the appeal and all associated material, I consider that adverse effects on site integrity of Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary SPA (Ref. 004015) European Sites in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.
- 9.1.5. Following an examination, analysis and evaluation of the NIS submitted with the appeal, and all associated material submitted, I consider that adverse effects on site integrity of the Rogerstown Estuary SAC and Rogerstown Estuary SPA European Sites can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the following:
- Detailed assessment of construction and operational impacts;
 - The proposed development will not affect the attainment of conservation objectives for Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary

SPA (Ref. 004015) European Sites or prevent or delay the restoration of favourable conservation condition for these Sites;

- Effectiveness of mitigation measures proposed and adoption of the CEMP;
- Application of conditions to ensure these matters if permission is granted.

10.0 Water Framework Directive

10.1.1. The subject site is located in a suburban area approximately 308m from the Rahillion stream. The proposed development comprises 18 no. dwellings. No water deterioration concerns were raised in the planning appeal, however concerns regarding the ecology of an adjacent drain were raised. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively, or otherwise jeopardise any water body in reaching its WFD objectives. The reason for this conclusion is the nature of works e.g. small scale and nature of the development and the location-distance from nearest Water bodies. I conclude that on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1.1. I recommend permission be **Granted**, for the reasons and consideration below.

12.0 Reasons and Considerations

Having regard to policies, objectives and provisions of the Fingal County Development Plan 2023-2029, including to the 'RS Existing Residential' land use zoning objective for the area which seeks to provide for residential development and protect and improve residential amenity; as well as to the relevant provisions of the Sustainable Residential Development & Compact Settlements 2024; and having regard to the nature, scale, form, height, layout and design of the proposed residential development; surrounding environment; and pattern of development in the area; on balance it is considered that the proposed development would generally align with the provisions of the County Development Plan and the provisions of relevant national guidelines, and would not impact unduly on residential or visual amenities, character, road traffic conditions, or the local environment, and that therefore the proposed development would generally accord with the proper planning and sustainable development of the area, subject to the conditions below.

13.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 30 th June 2025, and as further revised by plans and particulars received by An Coimisiún Pleanála on the 18 th September 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The following shall be complied with: (a) internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

	(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. (c) All works proposed to the existing public footpath to provide vehicular access to the site including details of pedestrian connectivity at the proposed access junction shall be agreed in writing with the authority prior to commencement; (d) A revised site layout plan shall be submitted for the written agreement of the Planning Authority demonstrating appropriate design and layout of the proposed shared surface to include appropriate stand-in and/or footpath space and buffer planting between dwellings unit numbers HT-A and HT-A (Drw. No. PL-01 'Site Plan' prepared by PCOT Architects submitted to the Planning Authority on 30th June 2025); (e) Details of the roadside boundary, proposed setback and access arrangements along Beaverstown Road shall be submitted to and agreed in writing with the Planning Authority prior to commencement. The roadside verge between the footpath and the proposed boundary shall be maintained as a level grass verge. Reason: In the interest of residential amenity and traffic and pedestrian safety.
3	Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing (landscape plan drawing no. P-L-001 prepared by Purser0. Such lighting shall be provided prior to the making available for occupation of any residential unit. Reason: In the interest of amenity and public safety.
4	Details of the materials, colours and textures of all the external finishes to the proposed structures/buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5	The mitigation measures contained in the submitted Natura Impact Statement (NIS) submitted to An Coimisiún Pleanála on the 18th September 2025 shall be implemented. Reason: To protect the integrity of European Sites.
6	The mitigation measures contained in the submitted Ecological Impact Assessment (Section 6.0) prepared by Moore Group and submitted to An Coimisiún Pleanála on the 18th September 2025, shall be implemented. Reason: To protect the local biodiversity and habitats.
7	The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development or parts of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: To ensure the satisfactory completion and maintenance of this development.
8	Upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall complete Stage 3 and 4 Road Safety Audits, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team and agreed in writing with the planning authority. Reason: In the interest of pedestrian and traffic safety.
9	The following shall be complied with: (a) The detailed design of the proposed public open space shall be agreed in writing with the Planning Authority prior to the commencement of development. (b) The site shall be landscaped in accordance with a comprehensive boundary treatment and landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: (i) A plan to scale of not less than 1:500 showing – (ii) Existing trees and hedgerows, specifying which are proposed for retention as

	features of the site landscaping; (iii) The measures to be put in place for the protection of landscape features during the construction period; (iv) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species; (v) Details of screen planting which shall not include cupressocyparis x leylandii; (vi) Details of roadside/street planting which shall not include prunus species; (vii) Hard landscaping works, including details of all proposed hard and/or permeable surface materials & finishes, footpaths, kerbing, road surfaces and finished levels within the development; (viii) details of proposed street furniture, including bollards, lighting fixtures and seating; (ix) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes. (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment (x) A timescale for implementation. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. Reason: In the interest of residential and visual amenity.
10.	Prior to the commencement of development, the Developer shall submit for the written agreement of the Planning Authority an updated Site Specific Flood Risk Assessment for the proposed development, accompanied by updated site layout and landscape plans which clearly demonstrate the provision of sufficient compensatory flood storage within the site to accommodate the displacement volumes referenced in the Flood Risk Assessment Report (prepared by 2HQ Consulting Engineers, Section 6.0) a result of the proposed development, to include corresponding details of proposed ground levels within the site.

	Reason: In the interests of public health and the proper planning and sustainable development of the area.
11.	The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority. Reason: To prevent flooding and in the interests of sustainable drainage.
12.	Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network. Reason: In the interest of public health and to ensure adequate water/wastewater facilities.
13.	The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the National Monument Service (NMS). Prior to the commencement of such works the archaeologist shall consult with and forward to the NMS a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the NMS, regarding appropriate mitigation incl. preservation in-situ/excavation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing

	the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer. Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.
14.	The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including: (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; (i) Provision of parking for existing properties at [specify locations] during the construction period; (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

	(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority; Reason: In the interest of amenities, public health and safety and environmental protection
15.	Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a final detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development. Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.
16.	Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

	Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.
17.	Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination. Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.
18.	The following shall be complied with: (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing. (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental

	housing. (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit. Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
19.	The developer shall pay to the planning authority a financial contribution as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment. Reason: It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.
20.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details

of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

-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.-

Dan Aspell
Inspector
27th March 2026

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ACP-323690-25
Proposed Development Summary	Construction of 18 no. houses.
Development Address	Beaverstown Road, Donabate.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	
	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(i) Construction of more than 500 dwelling units.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: __ 3rd March 2026__

Form 2: EIA Preliminary Examination

Case Reference	ACP-323690-25
Proposed Development Summary	Construction of 18 no. houses.
Development Address	Beaverstown Road, Donabate.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development	Proposed development comprises 18 no. dwellings in a town. The proposed development has a modest footprint, comes forward as a standalone project, requires minimal demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.
Location of development	The development is located in a town on greenfield land. The receiving location is not particularly environmentally sensitive and is removed from sensitive natural habitats, designated sites and identified landscapes of significance in the County Development Plan. The site is not of historic or cultural significance. Given the scale and nature of development and mitigation proposed there will be no significant environmental effects arising.
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** 3rd March 2026 _____
DP/ADP: _____ **Date:** _____

APPENDIX 2

Screening for Appropriate Assessment - Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	Construction of 18 no. houses, public open space, SuDS, connection to sewage and water supply mains, and all associated site works			
Brief description of development site characteristics and potential impact mechanisms	Site measures approx. 0.52ha and comprises grassed land. There is a drain adjacent the site to the south. Site is approx. 0.308km east of the Rahillion stream (Ref. IE_EA_08B012200, also referred to as 'Ballyboghil Ref. IE_EA_08B012200) and approx. 0.7km south-east of the Rogerstown Estuary.			
Screening report	Yes			
Natura Impact Statement	Yes			
Relevant submissions	Planning Authority screening			
Additional information:	The following information was submitted with the application and appeal: • AA Screening report; • Natura Impact Statement (NIS) and revised NIS; • Engineering Assessment Report; • Ecological Impact Assessment; • Flood Risk Assessment; • Engineering letters; • Engineering and Landscape drawings.			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
The site is not located within or directly adjacent to any designated European sites. The submitted Appropriate Assessment screening report from Moore Group Environmental Services identifies 5 no. European Sites within a 15km zone of influence (Rogerstown Estuary SAC (Site Code 000208); Rogerstown Estuary SPA (Site Code 004015); Malahide Estuary SAC (Site Code 000205); Malahide Estuary SPA (Site Code 004025); North-West Irish Sea SPA (Site Code 004236)). It states that for Malahide Estuary SAC and Malahide Estuary SPA there is no meaningful connectivity to these two Sites and they are screened out. It also states that the North-West Irish Sea SPA can be screened out due to the distance and dilution factors within Rogerstown Estuary. I identify the following Sites on grounds the source-pathway-receptor model.				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Rogerstown Estuary SAC (000208)	https://www.npws.ie/protected-sites/spa/004158	0.8km	Indirect hydrological pathways between the appeal site arising from surface-water discharges entering the adjacent drain which connects to Rahillion stream which discharges into Rogerstown Estuary.	Yes
Rogerstown Estuary SPA (004015)	https://www.npws.ie/protected-sites/spa/004236	0.8km	Indirect hydrological pathways between the appeal site arising from surface-water discharges entering the adjacent drain which connects to Rahillion stream which discharges into Rogerstown Estuary.	Yes

Malahide Estuary SAC (000205)	https://www.npws.ie/protected-sites/sac/000205	1.8km	No feasible connection.	No
Malahide Estuary SPA (004025)	https://www.npws.ie/protected-sites/spa/004025	1.8km	No feasible connection.	No
North-West Irish Sea SPA (004236)	https://www.npws.ie/protected-sites/spa/004236	2.4km	No feasible connection.	No

¹ Summary description / cross reference to NPWS website is acceptable at this stage in the report.

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species.

³if no connections: N.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites AA Screening matrix

Based on the abovementioned documents I consider the following. There is no potential for direct effects. The habitats within the site are not of value for qualifying species of Natura 2000 sites within the Zone of Influence. The apartment site does not provide suitable habitats/environments for these QI Species of the above SACs and SPAs. No ex-situ impacts on qualifying species of the above SPAs and SACs are considered likely.

Potential for significant effects was identified through surface water impacts during construction and operation of the proposed development via indirect pathways to European Sites (esp. hydrological connection to Rogerstown Estuary through the Rahillion Stream). This is due primarily to the site proximity and potential hydrological connection to the European Sites via an adjacent drainage ditch.

During the construction phase there are potential impacts relating to pollution of watercourses by surface runoff and other construction disturbances if works are carried out unmitigated.

During the operational phase there are potential impacts relating to pollution of watercourses by foul water and surface runoff.

The impacts described above could impact habitats and bird species within the above SPAs and SACs due to impacts on habitats upon which the habitats or birds species depend, indicators of conservation status and ecological function.

Design mitigation measures are listed in Section 3.6 of the revised NIS. Corresponding design measures and mitigation are set out within the Engineering Assessment Report submitted during the application process. The measures are standard measures and good practices designed to protect water quality during the construction and operational phases. During construction, they include sediment control, water quality & hazardous materials controls, assessment and monitoring or mitigation measures, SuDS (attenuation), and a construction environment management plan (CEMP).

Regarding in combination effects, there is evidence that there are other plans and projects that could lead to significant in-combination impacts on the Natura 2000 sites cited above, nor on any other Natura 2000 sites.

The matrix below identifies possible significant effects on the European sites in view of the conservation objectives (alone or in combination with other plans and projects).

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Rogerstown Estuary SAC (000208) 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1310 <i>Salicornia</i> and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>)	The project is not directly connected with or necessary to the management of a European Site. The proposed development will not result in any direct	Changes to habitat quality arising from deterioration in water quality. The potential negative effect on habitat quality may undermine conservation objectives associated with the

1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* The Conservation Objectives for the SPA are to maintain and restore the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the objective of restoration or make restoration more difficult.	effects such as habitat loss on any European site. There is sufficient distance and development separating the site from Rogerstown Estuary to avoid the possibility of significant effects, however given the proximity to the site to the adjacent drain which is hydrologically connected to the Rahillion Stream, managing impacts of development on the site's potential surface water hydrological connectivity via the drain and Rahillion Stream warrants further assessment and mitigation.	QI for which the site is designated. Possibility of significant effects cannot be ruled out without mitigation and further analysis & assessment.
Y	Likelihood of significant effects from proposed development (alone): No	
N	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
Y	Possibility of significant effects (alone) in view of the conservation objectives of the site No	
	Impacts	Effects
Rogerstown Estuary SPA (004015) A043 Greylag Goose <i>Anser anser</i> A046 Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A056 Shoveler <i>Anas clypeata</i> A130 Oystercatcher <i>Haematopus ostralegus</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A141 Grey Plover <i>Pluvialis squatarola</i> A143 Knot <i>Calidris canutus</i> A149 Dunlin <i>Calidris alpina alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A162 Redshank <i>Tringa totanus</i> A999 Wetlands The Conservation Objectives for the SPA are to maintain the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the objective of maintaining the conservation conditions.	The project is not directly connected with or necessary to the management of a European Site. The proposed development will not result in any direct effects such as habitat loss on any European site. There is sufficient distance and development separating the site from Rogerstown Estuary to avoid the possibility of significant effects, however given the proximity to the site to the adjacent drain which is hydrologically connected to the Rahillion Stream, managing impacts of development on the site's potential surface water hydrological connectivity via the drain and Rahillion Stream warrants further assessment and mitigation.	Changes to habitat quality arising from deterioration in water quality. The potential negative effect on habitat quality may undermine conservation objectives associated with the QI for which the site is designated. Possibility of significant effects cannot be ruled out without mitigation and further analysis & assessment.
Y	Likelihood of significant effects from proposed development (alone): No	
N	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Y	Possibility of significant effects (alone) in view of the conservation objectives of the site No
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.	
Further Commentary / discussion Due to the proximity of the site to the adjacent drain, and to the topography of the site on the southern side, and the potential hydrological connection of the drain to the Rahillion Stream, I consider that at this stage I cannot exclude that the proposed development would not generate impacts that could affect site within the identified zone of influence on ecological receptor without mitigation and further analysis & assessment. The potential exists for pollutants such as silt, sediment, oils and heavy metals to be mobilised from the development site by runoff to groundwater during construction or operational phases and transported downstream into the European sites which could adversely affect QIs for which the Sites have been designated.	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site It is not possible to exclude the possibility that proposed development either alone or in combination with other plans and projects would result significant effects on Rogerstown Estuary SAC and Rogerstown Estuary SPA European site(s) from effects associated with potential water quality deterioration. Proceed to AA.	

Screening Determination Significant effects cannot be excluded 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 it is not possible to exclude that the proposed development alone or in combination with other plans and projects will give rise to significant effects on Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary SPA (Ref. 004015) European Sites in view of the Sites' conservation objectives. Appropriate Assessment is required. This determination is based on: • The Zone of Influence of potential impacts; • Information presented in the AA Screening report and NIS submitted with the appeal; • Qualifying interests, special conservation interest and conservation objectives of the European Sites. • Potential hydrological pathway to the European site via an adjacent drain.

Appropriate Assessment			
The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.			
Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of 18 residential units; all associated site works; surface and foul water drainage infrastructure which comprises connection to existing surface water drainage infrastructure and drainage to ground, in view of the relevant conservation objectives of Rogerstown Estuary SAC and Rogerstown Estuary SPA based on scientific information including that provided by the applicant. The information relied upon includes the following: • AA Screening report; • Natura Impact Statement (NIS) and revised NIS; • Engineering Assessment Report; • Ecological Impact Assessment; • Flood Risk Assessment; • Engineering letters; • Engineering and Landscape drawings. I am satisfied the information provided is adequate to allow for Appropriate Assessment. I am satisfied all aspects of the project which could result in significant effects are considered and assessed in the NIS submitted with the appeal and mitigation measures are included and assessed for effectiveness.			
Submissions/observations No AA issues raised in submissions.			
Rogerstown Estuary SAC (000208) Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Water quality degradation (construction and operation) (See Section 3.4 & 3.5 NIS)			
Qualifying Interest features likely to be affected.	Conservation Objectives Targets and attributes summary.	Potential adverse effects.	Mitigation measures (summary) (Section 4 in NIS)
Rogerstown Estuary SAC (000208) 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1310 <i>Salicornia</i> and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*	Maintain and restore favourable conservation condition	Potential negative indirect impacts on surface-water quality due to accidental spillages and contaminated runoff (concrete, fuel/lubricant spillages, surface water runoff).	Surface water management / SuDS. Construction management. Application of industry standard construction measures and controls including best practice pollution control measures. Good construction practices and CEMP to be submitted for approval. Related planning conditions.
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			
Rogerstown Estuary SPA (004015) Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Water quality degradation (construction and operation) (See Sections 3.4 & 3.5 of NIS)			

Qualifying Interest features likely to be affected.	Conservation Objectives Targets and attributes summary.	Potential adverse effects.	Mitigation measures (summary). (Section 4 in NIS
Rogerstown Estuary SPA (004015) A043 Greylag Goose <i>Anser anser</i> A046 Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A056 Shoveler <i>Anas clypeata</i> A130 Oystercatcher <i>Haematopus ostralegus</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A141 Grey Plover <i>Pluvialis squatarola</i> A143 Knot <i>Calidris canutus</i> A149 Dunlin <i>Calidris alpina alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A162 Redshank <i>Tringa totanus</i> A999 Wetlands	Maintain favourable conservation condition	Potential negative indirect impacts on surface-water quality due to accidental spillages and contaminated runoff (concrete, fuel/lubricant spillages, surface water runoff).	Surface water management / SuDS. Construction management. Application of industry standard construction measures and controls including best practice pollution control measures. Good construction practices and CEMP to be submitted for approval. Related planning conditions.

The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

Assessment of issues that could give rise to adverse effects in view of conservation objectives

The above tables are based on the documentation and information provided on the file, as well as information as contained on the NPWS website. I am satisfied the NIS has adequately considered potential effects on each relevant qualifying interest, therefore.

Surface water falling from the site at present is percolates to ground through soil and follows surface- and groundwater pathways. Section 3.6 of the NIS sets out proposed mitigation measures in detail. Corresponding measures are contained in the Engineering Assessment Report submitted with the application.

At construction phase, these measures include standard measures and good construction practice including sediment control; concrete and fuel management; and a CEMP which should avoid any such adverse effects on the European sites during the construction phase.

At the operational phase, the Engineering Assessment Report and related drawings set out design measures including standard measures and good practice including SuDS. Foul waters to connect to foul mains. Surface water is to drain to the existing surface water mains within the estate and proposed SuDS measures included as part of the project include permeable paving, porous asphalt, gravel filter drains, by-pass separator, and underground attenuation.

The NIS considers the proposed construction & operational phase measures should prevent adverse effects on the identified European Sites or other European Sites.

In-combination effects

I am satisfied that in-combination effects have been assessed in the NIS in this case (Section 3.7). The applicant has demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore no potential for in-combination effects.

Findings and conclusions

The application and appeal and revised NIS documentation determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with

other plans and projects, will not adversely affect the integrity of the above European Sites. I am satisfied that the project would not compromise the objective to maintain the favorable conservation condition of these Sites. Based on the information provided and my own assessment I am satisfied adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts and mitigation measures are described to prevent ingress of surface water laden with silt, sedimentation, and construction related pollution, as well as oils/lubricants and concrete pollutants to surrounding water bodies at construction and operational stage. I am satisfied the mitigation measures proposed to prevent adverse effects are standard practice, have been assessed as effective and can be implemented. In combination effects have also been reasonably assessed and there is no potential for combination effects

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of Rogerstown Estuary SAC and Rogerstown Estuary SPA European Sites. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Rogerstown Estuary SAC (Ref. 000208) and Rogerstown Estuary SPA (Ref. 004015) European Sites in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS submitted with the appeal all associated material submitted, I consider that adverse effects on site integrity of the Rogerstown Estuary SAC and Rogerstown Estuary SPA European Sites can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts including revised NIS;
- The proposed development will not affect the attainment of conservation objectives for Rogerstown Estuary SAC and Rogerstown Estuary SPA European Sites to maintain the favourable conservation condition for these Sites;
- Effectiveness of mitigation measures proposed and adoption of a CEMP;
- Application of planning conditions to ensure these matters if permission is granted.