



An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-308803-20

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### Strategic Housing Development

Demolition of existing sheds,  
construction of 142 no. residential  
units (82 no. houses, 60 no.  
apartments), creche and associated  
site works.

### Location

The Commons, Navan Road, Duleek,  
Co. Meath

### Planning Authority

Meath County Council

### Applicant

Manley Construction Limited

### Prescribed Bodies

Irish Water  
An Taisce

**Observers**

1. Gareth Sheehan
2. Michael Gogarty
3. Mr and Mrs Thomas McGuinness
4. Protect East Meath Limited  
FPLogue Solicitors
5. Stephen Gallagher

**Date of Site Inspection**

17<sup>th</sup> February 2021

**Inspector**

Rónán O'Connor

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site is in the town of Duleek in east Meath. The town lies c9km south-west of Drogheda. The site has a stated area of 5.6ha. It lies approximately 750m west of the centre of the town. The site is currently in agricultural use as tillage. There are existing agricultural sheds on the site of 129 sq. m and 37 sq. m.
- 2.2. The southern boundary of the site has c200m of frontage onto the R150 Navan Road, where a 60km/hr speed limit applies. There is a footpath along this frontage linking back to the town of Duleek. A GAA club occupies the adjoining land to the west along that road. Its clubhouse stands near the site boundary. Most of the northern and eastern site boundaries adjoin grassy fields or the curtilages of detached houses. However the north-eastern corner has c85m frontage onto a local road, the Downtown Road, that serves suburban housing to the north and north-east of the site. There is a footpath on the opposite side of that road. A 110kV line crosses the site from north to south.

## 3.0 Proposed Strategic Housing Development

The proposed development comprises:

- The demolition of existing agricultural sheds 129 sq.m and 37sq.m. and closure of existing vehicular entrance to shed.
- The relocation of one existing ESB pole on the western area of the site.
- The development of 142 residential units in total, on the residential zoned lands. This will include for a mix of 82 houses and 60 apartments comprising 44 two storey two bed houses, 38 two storey three bed houses, 60 two bed apartments, all two storey in 15 blocks with 4 apartments in each block, and all associated

open space and service infrastructure including possible location of photovoltaic panels on roofs where this is required.

- Provision of a single storey creche, 320 sq.m floor area and associated outdoor play area. The gross floor area of the housing and crèche is 13,382 sq.m. Provision of 270 parking spaces, 254 serving the residential units including provision of 2 Go Car sharing spaces and 16 parking spaces serving the crèche.
- The development provides for an urban park of 1.1197Ha on the open space zoned lands, ancillary other landscaped open space and play areas 0.5926 Ha., and a community garden of 0.1802Ha, comprising a total provision of 1.8925 Ha of open space and parkland.
- Associated internal roads, footpaths, cycle paths and all services infrastructure, bin
- Storage and public lighting associated with the development.
- Provision of 256 cycle spaces throughout the development, with 76 allocated within rear gardens of houses and 180 spaces allocated to apartments.
- Provision of two public electric car charging points and integrated electric charging points to residential spaces.
- Vehicular Access to the development is proposed via two vehicular entrances from The Navan Road, Duleek where the existing public footpath arrangement is reconfigured to provide for a new cycle path, footpath and planted verge connecting to the public footpath network.
- It is proposed to provide a new pedestrian entrance to the north of the site onto the Downstown Road and a new public footpath and cycle path along the northern boundary of the site and two proposed pedestrian crossings connecting the development to the Downstown Road public footpath network.

### Key Figures

Site Area	5.57 Ha
No. of units	142
Density	33 units/ha (net)

Height	2 storeys maximum
Public Open Space	1.12 Ha
Communal Space	892.61 sq. m.
Part V	14 units
Vehicular Access	2 no. access points from the R150
Car Parking	270 spaces
Bicycle Parking	256 spaces
Creche	320 sq. m.

Unit Type	1 bed	2 bed	3 bed	4 bed	Total
House	0	44 (31%)	38 (27%)	0	<b>82</b>
Apartment	0	60 (42%)	0	0	<b>60</b>
<b>Total</b>	<b>0</b>	<b>104</b>	<b>38</b>	<b>0</b>	<b>142</b>

## 4.0 Planning History

### Subject Site

4.1.1. SA/70588 – In January 2008 the council refused permission for 63 homes, 3 shops and a creche on part of the site. Details contained within the applicant's documentation state that this application was refused for 5 no. reasons relating to the following:

1. Prematurity pending the development plan variation to adopt a phasing strategy for residentially zoned lands.
2. Design/Parking Layout/Open Space provision.
3. Excessive retail provision.

4. Inadequate sight lines resulting in traffic hazard.
5. Prematurity having regard to deficiency in water and sewerage infrastructure.

4.1.2. No additional details/drawings in relation to the above application are on file and no additional details are available on the Meath County Council website.

## 5.0 Section 5 Pre Application Consultation

5.1.1. A pre-application consultation with the applicants and the planning authority took place via Microsoft Teams on 18<sup>th</sup> May 2020 in respect of a proposed development of 148 homes and a creche. An agenda was issued prior to the meeting.

5.1.2. In the Notice of Pre-Application Consultation Opinion dated 9<sup>th</sup> June 2020 (ABP Ref. ABP-306637-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **required further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

5.1.3. In the opinion of An Bord Pleanála, the following issues needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. The core strategy and phasing provisions of the development plan.
2. The frontage onto the Navan and Downstown Road.

The prospective applicant was notified that the following specific information should be submitted with any application for permission:

- A plan showing the proposed development in relation to the zoning objectives that apply to different parts of the site.
- An ecological report.
- A housing quality assessment.
- A Site Specific Flood Risk Assessment Report.
- A phasing scheme for the development.

- Details of proposed boundary and surface treatments.
- A draft construction management plan
- A draft waste management plan.

## 6.0 Applicant's Statement

- 6.1.1. The application includes a statement of response to the pre-application consultation (Section 4.1 of the Planning Report - Response to the An Bord Pleanála Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

### Response to Item 1 - The core strategy and phasing provisions of the development plan

- Transitional population projections for Meath see the population increasing from 195,000 in 2016 to 221,000 in 2026 to 231,000 by 2031.
- The lands can be classified as Tier 1 serviced zoned lands/lands that are able to connect to existing development services.
- Site is located within the development footprint of Duleek/sequential infill site contiguous to already established housing estates/can connect to all services and infrastructure/extensive community and recreational facilities and social infrastructure and schools.
- Consolidated compact growth is to be concentrated in urban areas such as Duleek.
- Deficit of housing supply/only 36 units have been constructed over the development plan period to 2019.
- RSES Identifies Duleek located within the core area of the EMRA region/Dublin Belfast Economic Corridor.
- RSES acknowledges significant pent up housing demand/Failure to deliver the core strategy housing allocation in Duleek
- Household completions in Meath since 2008 have been significantly below that projected in the RPGs.

### Core Strategy

- Housing supply in Duleek over the course of the Development Plan 2013-2019 was 36units/ the development plan core strategy.
- Shortfall of 399 (including extant permissions) housing units in Duleek, which were not provided over the development plan period/Evidence is clear that c.400 /units are necessary in the short term to address the current development plan pent up housing demand in Duleek.

### Phasing of Zoned lands and delivery of core strategy

- Has been a failure to release Phase I development land for housing in accordance with the core strategy/Logical and reasonable to progress the release Phase II lands/RSES guidance states that where lands have not been released for development stipulates that Local Authorities should consider other suitable lands with better prospects for delivery in the short term.
- At the time of making this application two sites have commenced construction/ will result in the provision of a total of 74 units since 2013 -2020 (site A, lands between Station Road and Fr Ryan Park, Mauldrin Close ,45 units, and site H lands between Station Road and Main Street, Bersford, 29 units).
- Leaves a deficit of 361 housing units to satisfy the core housing strategy to 2019/There is also a total of 9 extant permitted units.
- Subject development is sequential in that it follows the line of existing housing on the Navan and Downtown Roads and is within the development footprint of the town.
- Duleek is designated as a Small Town in the settlement hierarchy with the focus on sustainable local growth in line with infrastructure and services/broad approach of the Development Plan for Small Towns is to manage growth in line with the ability of local services to cater for growth and respond to local demand.
- The subject site is designated as Phase II lands (post 2019)/The current application is submitted post 2019 and therefore the timing and phasing of the lands is now moot.

- Site is within a 1km catchment of the town centre/easily accessible sustainable walking catchment for all services/ Subject development provides for pedestrian permeability and connection/Integration of cycle paths and pedestrian paths within the scheme.
- Evaluation of the lands for phasing was a desktop assessment/did not take account of flood risk/accessibility of services infrastructure.
- Contribution of an urban park and a community food garden provides for a significant planning gain in terms of consolidation of recreational amenity
- Submit that the subject development is compliant/Board may take a different view/ have included a Material Contravention Statement.

#### Frontages/Design Changes

- The frontage to the Navan and Downstown Roads has been modified/Red line boundary has been updated to extend around the two proposed pedestrian road crossings to north of site on the Downstown Road and service locations at both entrances along the southern boundary of the site.
- 2.5m wide cycle path and 2m wide footpath has been introduced along the site boundary in order to act as a traffic calming measure and provide for active street frontage/proposed footpaths link back to the existing footpath along the R150 towards Duleek/ new streetscape focusing on permeability and landscaping which highlights the proposed new urban park at the centre of the development.
- Height of the development has been reduced from three storey to two storey/two 3 storey T5 Duplex apartment blocks the north of the site have been removed/replaced with two T4 (2 bed apartments) blocks which are two storey/T4 apartment units have been designed as dual frontage units and orientated to address the Downstown Road/redesign ties in with the Council advice and consultation as well as responding to the Board Opinion/provides for a more coherent layout of communal and private open space serving the apartments.
- Block of T4 units( 4no. two bed apartments)replaced by two houses/Crèche has been re-designed/Disabled car parking spaces have been added to the scheme/Art installation included

#### Response to Specific Information

6.1.2. The applicant has responded to each item of Specific Information as detailed in the Response to the Opinion (Section 4.16 of the Planning Report).

## 6.2. Material Contravention Statement

6.2.1. Section 15 of the Applicant's Planning Report sets out a statement in relation to a possible Material Contravention of the Development Plan (Statement to Justify Material Contravention of the Development Plan 2013-2019). This is summarised as follows:

- Potential material contravention of the development plan as relates to core strategy/phasing of the lands as phase II post 2019/ density.
- The scale of the subject development complies with that definition of strategic development/Clear and urgent need at national level to deliver housing/development supports achieving the objectives of Rebuilding Ireland/evident that there is a significant pent up demand for 400 housing units in Duleek/failure to deliver the core strategy in line with national policy set out in Rebuilding Ireland to deliver housing supply.
- The lands can be considered to be Tier 1 zoned lands/There is therefore a national strategic justification to grant permission for the subject development.
- Allocation of 239 housing units to Duleek within the period 2013-2019 is unclear/yield output table shows that the number of units in Phase 1 add up to 266 and not 239 as suggested in Table 2.4.
- Table 2.5 shows the committed unbuilt units in 2019 as 169 units and the household allocation as 239 units.
- Table 2.4 further assumes an average density of 25 units /Ha although the development plan policy allows for consideration of density on a site by site basis with reference to the Sustainable Residential Density Guidelines density of 35 units/Ha.
- Section 11.2.1 of the development plan says densities of up to 35 units/ha shall be applicable in small towns.

- Lack of clarity in relation to Tables 2.4 and 2.5 and the the yield output tables in the written Statement for Duleek, and the objective for small towns to sustain local growth.
- Conflict therefore with phasing of the subject site as Phase II when the services infrastructure is in place to deliver housing in an immediate time frame.
- Core strategy for Duleek has not been achieved and the extant permissions for 169 additional housing units have not been implemented/The total delivery of housing units needed is 435 units.
- Conflict therefore with the presumption the core strategy will provide for housing need.
- Duleek is located within the Core EMRA and the RSES supports making optimal use of existing infrastructure, roads services and other ICT services/subject lands are already served by existing infrastructure/sufficient wastewater and waste capacity.
- Rebuilding Ireland warrants an increase in housing supply on zoned lands and prioritising the development of the subject site.
- The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual –A Best Practice Guide, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, the Design Manual for Urban Roads and Streets (DMURS) all support higher residential density in areas served by existing infrastructure.
- The proposal for 33 units /Ha satisfies and is promoted by those guidelines. clustering of major energy infrastructure employment and investment at Carranstown, (€140m in waste to Energy Incinerator)Scottish & Southern Energy open cycle gas turbine generation plant/Duleek Business Park generates additional housing need locally in the area.
- Duleek is located within the Dublin Belfast Economic Corridor growth zone/Development will sustain further economic development in this corridor in accordance with the NPF objectives.

- The pattern of development demonstrates significant investment in the GAA pitches and clubhouse/construction of a new community centre.
- Residential development has taken place on lands across the road from the subject site/site forms a final piece in the consolidation of the residential neighbourhoods formed by Cill Carban, Downstown, Steeples Bath Abbey and Belfry.
- Recent permission for the Steeples sustains a case for permission on the subject site where that development may have given rise to a material contravention of the development plan.

## 7.0 Relevant Planning Policy

### 7.1. National Policy

#### Project Ireland 2040 - National Planning Framework

The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### Section 28 Ministerial Guidelines

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

- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020)
- Urban Development and Building Height, Guidelines for Planning Authorities (2018)

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) (2009)
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

## 7.2. Regional Policy

### Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

7.2.1. Duleek lies within the Core Region as defined in the RSES-EMRA. Within the RSES-EMRA this is described as ‘home to over 550,000 people, includes the periurban

'hinterlands' within the commuter catchment of the Dublin metropolitan area, which extends into parts of the Midlands, Louth and beyond the Region into Wexford, with some of the youngest and fastest growing towns in the Country'.

Relevant objectives within the RSES-EMRA include:

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES-EMRA.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES-EMRA.

### 7.3. Local Policy

#### **Meath County Development Plan 2013-2019**

The Meath County Development Plan 2013-2019, is the operative plan for this site<sup>1</sup>.

The development site is subject to two zonings. The eastern and western portions of the site are zoned for residential development under the current Meath County Development Plan 2013-2019 and have the zoning objective A2 New Residential: *To provide for new residential communities with ancillary community facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy.* The residential zoning is qualified as 'Phase II (Post 2019).

The middle portion of the site has the zoning objective F1: *To provide for and improve open spaces for active and passive recreational amenities.* This element of the site is also subject to an overhead cable line buffer (25m) due the presence of ESB cables traversing the site.

Density - The appropriate density will be determined on a site by site basis having regard to the Guidelines on Sustainable Residential Development in Urban areas and centre in the Settlement Hierarchy provided in the Core Strategy.

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<sup>1</sup> At the time of writing this report (11<sup>th</sup> March 2021 and having regard to information the Meath County Council website including that accessed at <http://countydevelopmentplanreview.meath.ie/>)

SS OBJ 6- Planning applications for 200 or more dwelling units must be accompanied by a report identifying the demand for school places likely to be generated by the proposal and the capacity of existing schools in the vicinity Duleek is identified as a small town

Table 2.2- Role of Settlements- population 1,500-5,000

Table 2.4- Housing allocation – 239

Table 2.5- Committed units Unbuilt in Dec 2014 - 169

Duleek Written Statement (Volume 5 of the CDP), section 04 Residential Development states: The Core Strategy of the County Development Plan (Table 2.4 refers) provides a housing allocation of 239 units to Duleek over the 2013 – 2019 period. In addition, Table 2.5 indicates that there are a further 160 units committed to in the form of extant planning permissions. These sites with the benefit of extant planning permission are identified on the land use zoning objectives map. The principal sites in question pertain to lands off Station Road and Larrix Street.

The land use zoning objectives map has identified the lands required to accommodate the allocation of 239 no. units provided for under the Core Strategy. This followed the carrying out of an examination of the lands previously identified for residential land use in the 2009 Duleek Local Area Plan and still available for development. The lands which have been identified for residential land use arising from this evaluation largely arise following the application of the sequential approach from the town centre outwards, in addition to proximity to the public transport corridor, brownfield/opportunity sites, environmental constraints/proximity to the River Nanny and tributaries which drain to a Natura 2000 site, and infill opportunities.

The sites that were evaluated for inclusion within Phase 1 and Phase II of the Order of Priority are presented in the Appendix attached to this Written Statement. The Planning Authority is satisfied that sufficient lands have been identified within Phase I of the Order of Priority to accommodate the household allocation of 239 units.

#### Variation No. 2 to the Meath County Development Plan 2013-2019

Variation No. 2 required the production of a written statement for towns and villages of a certain size. The written statement for each centre provides detail on the rationale which determined which lands would be identified for release during the

period of the County Development Plan 2013 – 2019. Key points of the Duleek written statement include:

Development plan Variation No. 2, adopted in 2014 sets out an Order of Priority for lands in Duleek, based on a sequential approach and a Residential Land Evaluation. The Appendix to the Duleek Written Statement sets out the Evaluation of Residential Zoned Lands.

This current SHD site is split between 'Site E' and 'Site G' for the purposes of residential evaluation and ranked 7th and 9th (out of 10 sites) respectively and are allocated for Phase II release, with sites ranked 1 to 6 being allocated for Phase 1 release.

A density of 25 units per hectare is included for the Core Strategy phasing.

#### Written Statement Strategic Policies

SP2 - To encourage the sequential development of Duleek from the central core outwards, in order to ensure that the higher order facilities and the higher density development is located on the most central lands where possible, with optimum access and the highest level of services

SP 3 - To operate an Order of Priority for the release of residential lands in compliance with the requirements of CS OBJ 6 of the County Development Plan as follows:

- i) The lands identified with an A2 "New Residential" land use zoning objective corresponds with the requirements of Table 2.4 Housing Allocation & Zoned Land Requirements in Volume I of this County Development Plan and are available for residential development within the life of this Development Plan.
- ii) The lands identified with an A2 "New Residential" land use zoning objective but qualified as "Residential Phase II (Post 2019)" are not available for residential development within the life of this Development Plan.

#### Section 11.2.1 Residential Density

Meath County Council recognises the benefits of increasing the density of residential development at appropriate locations in harmony with improved public transport systems in accordance with various strategies and reports such as the 'National Spatial Strategy', the 'Sustainable Residential Development in Urban Areas

Guidelines' and the 'Regional Planning Guidelines for the Greater Dublin Area'. Such an approach would encourage a more sustainable form of urban development through the avoidance of excessive suburbanisation and consumption of greenfield virgin lands and ensuring a more economic use of existing infrastructure and serviced lands. A further benefit would be the reduction in the dependence on the use of the private motor car, facilitating and encouraging walking and cycling by reducing the distance to be travelled and improving accessibility to, and the attractiveness of, public transport. The use of zoned and serviced land to its maximum, as positioned in the core strategy through the emphasis on consolidation, will assist in achieving the objective of satisfying housing demand.

In respect of Large Growth Towns, Moderate Sustainable Growth Towns and Small Towns which are located on well established, existing or proposed public transport routes or nodes with additional capacity, residential densities in excess of 35 net residential units per hectare should be utilised particularly in town centre locations. This is subject to good design and in the absence of onerous site constraints. In all other instances, in the county's smaller towns and villages, maximum densities of 35 net residential units per hectare shall be applicable, and in general densities and house types shall be compatible with established densities and housing character in the area. The justification for the density of a given scheme should be detailed in the design statement or in a report accompanying the application where a multi-unit proposal is below the threshold for a design statement. Where Meath County Council considers that there is an over proliferation of particular types of housing in an area, the Council may seek to re-balance the form of housing in new schemes.

However, before these benefits may be exploited, there are several challenges that should be considered, such as:

- Raising the standard of design to ensure that in the pursuit of quantitative based housing yield, qualitative aspects of design are not weakened;
- Considering the pursuit of radical new forms of development rather than a compression of traditional housing form;
- The identification of key public transport corridors and other suitable locations where higher densities may be considered;
- Ensuring that development takes place in an integrated manner, and;

- Considering the pursuit of higher residential densities only in conjunction with the protection of existing urban quality and where adequate infrastructure is available.

The appropriate residential density in any particular location will be determined by the following:

- The extent to which the design and layout follows a coherent design brief resulting in a high quality residential environment;
- Compliance with qualitative and quantitative criteria set out in the subsequent sections;
- The extent to which the site may, due to its size, scale and location, propose its own density and character, having regard to the need to protect the established character and amenities of existing adjoining residential areas;
- Proximity to points of access to the public transport network;
- Existing topographical, landscape or other features on the site, and;
- The capacity of the infrastructure, including social and community facilities, to absorb the demands created by the development.

The choice as to the level of residential density appropriate to a given area cannot therefore be considered in simple arithmetic terms for all development sites as a single numerical value. Rather, the identification of a given density and the question of its appropriateness should be determined by spatial planning and architectural design criteria, determined by the context of a given site and the relationship to the overall proper planning and sustainable development of that centre.

Section 11.2.2 Residential Design Criteria, sets out the various design and residential amenity considerations of residential development.

### **Draft Meath Development Plan 2021-2027**

This has not yet been adopted<sup>2</sup> and the current Development Plan Policies are applicable. Information on the Meath County Council website states that, as of 9<sup>th</sup> March 2021, Members have agreed changes to Draft Meath County Development Plan. The Special Meeting relating to the Member's feedback on the Chief

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<sup>2</sup> At the time of writing this report (11<sup>th</sup> March 2021) and having regard to information the Meath County Council website including that accessed at <http://countydevelopmentplanreview.meath.ie/>)

Executive's Report on the submissions received on the Draft Plan closed on Friday 5th March 2021. This stage of the process is now complete. It is anticipated that the Material Alterations arising from the Member's changes, will be placed on public display from 26th May 2021 to 28th June 2021.

The Planning Authority's submission on this application (which is dated 5<sup>th</sup> February 2021) notes that in the Draft Meath County Development Plan 2021-2027 the entire SHD site has been downzoned to a 'Rural Area' zoning and thus no longer retains its previous Phase II Residential Zoning and is therefore now outside the settlement boundary.

The Draft Development Plan 2021-2027 designates Duleek within the 'Towns and Villages' Category which is on the 6th Tier of the of the RSES regional settlement hierarchy. These are described as Towns and villages with local service and employment functions.

The Draft Core Strategy indicates an allocation of 336 new residential units and 10.9 ha of zoned land for Duleek for the plan period 2020-2026. The Written Statement for Duleek set out in Volume 2 of the draft plan states a different allocation of 303 units, stating that the unbuilt extant units have been included in this allocation.

Section 5.1 of the Duleek Written Statement in Volume 2 of the Draft Plan states that future residential development in the town will take a more sequential approach to development with priority given to lands closer to the town centre and Business Park in addition to under-utilised infill and brownfield lands.

The draft development plan objective DUL OBJ 1 states:

*To secure the implementation of the Core Strategy of the County Development Plan, in so far as is practicable, by ensuring the household allocation for Duleek as set out in Table 2.11 of the Core Strategy is not exceeded.*

## 8.0 Observer Submissions

- 8.1.1. 5 no. submissions on the application have been received from the parties as detailed above. The issues raised are summarised below.

Gareth Sheehan, 51 The Steeples, Downstown Road, Duleek

- Lack of parking

- Apartments and duplexes should not be permitted/will change the landscape of the area
- Development would not be fit for the historic town of Duleek
- Duleek does not have a train station
- Bus service is poor
- Town cannot take anymore traffic or people
- Schools are at full capacity/no secondary school/no plans to build one
- Developer does not finish developments properly
- In general leave dumps/fly tips including at the Steeples & Downstown Manor developments and other locations(photograph and marked up maps attached)/lead to anti-social behaviour
- Houses should complement the homes opposite them/not an overdeveloped site with duplexes, apartments, narrow roads and a severe lack of parking
- Too many homes for such a small space/development is not fit for purpose.

Michael Gogarty, 54 The Steeples, Downstown Road, Duleek

- Pedestrian crossing and lights will prevent parking of work vehicle in front of home.
- Noise from ramp traffic/from pedestrian crossing unit/flashing light
- Cycle lane is on a dangerous bend.

Mr & Mrs Thomas McGuinness, Downstown Road, Duleek

- Development will be too close to dwelling and will eliminate privacy.
- New pedestrian crossing will be almost directly outside our gate/will cause a build up of traffic that will make it very difficult to access the road from the driveway
- Increased noise pollution from traffic and other sources
- Impact on wildlife
- Property will be open to trespass

FPLougue Solicitors on behalf of Protect East Meath Limited

- Breach of Public Participation Rules/Provisions of the Planning and Development (Housing) and Residential Tenancies Act 2016 (the “2016 Act”) are contrary to Articles 6(2) and 6(4) of the Environmental Impact Assessment Directive (Directive 2011/92/EU)/public is not given early and effective opportunities to participate in the decision-making procedure when all options are open.
- Public is precluded from participating in the mandatory consultation procedure under section 6 of the 2016 Act/Procedure is incompatible with the EIA Directive.
- In this case and presumably for all SHD cases public participation does not and did not take place at the earliest opportunity/rendering the procedure unlawful as a matter of EU law

### Zoning

- The land zoned A2 Residential is qualified as ‘Residential Phase II (Post 2019)’ /Highlands Residents Association and anor v An Bord Pleanála and ors [2020] IEHC 622 held that the Board is precluded from granting planning permission on Phase II lands in County Meath.

### Material contravention – breach of SEA Directive.

- Impermissible as a matter of EU law to grant permission for an EIA project that falls outside the framework of the CDP by granting permission for a development that is expressly precluded under the CDP.
- This is because the CDP and Variation No 2, which were both subject to SEA set the framework for future development consents under the EIA Directive.
- CJEU case law indicates that any measure allowing derogations from such plans and programs must itself satisfy the requirements of the SEA Directive (Directive 2001/42/EC). In the instant case the 2016 Act purportedly gives An Bord Pleanála powers to grant permission in material contravention of the CDP. In essence this represents a form of derogation condemned by the CJEU and is therefore incompatible with EU law.
- The Board has a duty under the WRC case to disapply conflicting EU law.

### Material Contravention – criteria are not satisfied.

- There is a material contravention in relation to both zoning and density/noted that the density specified for Duleek in the draft Meath County Development Plan remains at 25 units/ha.
- Developer has not made the case for a material contravention based on the criteria cited in sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000.
- The developer claims that the mere fact that the proposal qualifies as strategic housing development is sufficient to meet this criterion/cannot be the case.
- This location is neither strategically nor national important/Meath County Council has proposed to dezone it/take it outside the boundary of Duleek in the draft development plan.
- No conflicting objectives in development plan have been identified.
- Part (iii) – Having regard to the RSES, S28 guidelines, S29 policy directives etc.
- Granting of permission in material contravention of the Development Plan is not justified based on higher tier plans/Primary mode of implementation of the NPF and RSES is via the Core Strategy of the development plan/Draft development plan does not identify this site as being within the settlement of Duleek and proposes to remove its residential zoning/no basis for the argument that permission must be granted in contravention of the development plan in light of the NPF and/or RSES
- Pattern of Development - This ground is so vague to be inapplicable/applicant hasn't demonstrated that this criterion has been satisfied.

#### EIA Directive

- It is noted that inadequate information in relation to EIA screening is presented and the application is not accompanied by an EIA Screening Report/applicant has not provided the information required by Part 23 of the Planning and Development Regulations/Board does not have sufficient information to make a lawful EIA Screening Determination and must refuse the application.
- EIA Screening cannot be conducted in relation to bats.

#### Habitats Directive – Bats

- Must be an assessment of potential significant effects on bats in advance of permission being granted/Report provided by the applicant was not done at the correct time of year/acknowledges that tree lines/hedgerows have potential for bat roosts but does not rule out the presence of bat roosts leaving this to the night preceding felling (i.e. after permission has been granted and the works commenced) This approach was condemned by the Court of Justice in case C-183/05 (Commission v Ireland).

Stephen Gallagher. Downstown Road, Duleek, Co. Meath, A92 X7T2

- The applicant has not provided for adequate boundary treatment between the proposed development and my property/ a 2.5 metre (minimum) high wall should be constructed on the development side of the existing hedgerow for reasons of safety/security/privacy/lighting impacts
- Figures 5 & 6 show hedgerow at rear of home/this has been removed
- Request that apartment block Type T4, units 15-18 be omitted from the development due to visual impact/impact on value of home/height and proximity apartment blocks to house.
- Photos and Figures included.
- Impact on winter sun/ The proposed apartment block because of its scale and proximity to boundary would block sunlight and cast a constant shadow on south facing garden/T4 apartment block with first floor windows and balcony overlooking property.
- Overlooking and loss of privacy.
- The proposed development lacks adequate provision for green open space/The proposed development provides only for hard landscaping to front of units (no grass verge between roads and footpaths etc/Urban park area is situated directly below 3no. 110kv power lines and thus cannot be regarded as useable open space.
- Poor quality design and layout of estate/Despite the site having a south facing aspect and gently sloping the road layout is linear running north to south, resulting in almost all the units facing east and west and therefore unable to maximize the benefits of solar gain/Lack of variation of house types/all units in

the proposed development are either two storey terraced or two-storey apartments/no single storey or two storey detached or semi-detached units proposed for the development.

- High density of the proposed development and construction of multi-unit apartment blocks on the fringes of the development boundary of Duleek village would set a precedent for poor/undesirable development and would not in keeping with established planning practice and MCC strategic objectives for the village and surrounding area.
- The proposed development does not comply with the current Meath County Development Plan 2013-2019 or the proposed Meath County Development Plan 2021-2027.
- Under the current development plan the proposed development lands are zoned Phase II and not available for residential development within the lifetime of the current plan (SP 3 ii) and therefore development of this land would be a material contravention of the adopted county development plan/New development plan 2021-2027 land use zoning maps show the proposed development lands outside the development boundary and therefore not available for development.
- The low ranking demonstrates the lands in this area are unsuitable for residential development within the lifetime of the development plan.
- The proposed development is located on lands not zoned for release for development during the lifetime of the Meath County Council Development Plan 2013-2019, and as such to grant planning permission for this development would be contrary to the provisions of section 9(6)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, in that the Board shall not grant permission where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of land.
- Land use zoning objectives map 2020-2026 showing large areas of undeveloped land within the environs of Duleek village center,

## 9.0 Planning Authority Submission

- 9.1.1. Meath County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.
- 9.1.2. Section 6.3 of the report sets out Local Planning Policy. It is stated that the draft County Development Plan for the period 2020-2026 went on public display on 18/12/19 and the submission period ran until 06/03/20. The entire SHD site has been downzoned to a “Rural Area” zoning and thus no longer retains its previous Phase II Residential zoning under the draft plan and therefore outside the settlement boundary.
- 9.1.3. Section 7.0 of the report sets out the key planning considerations. I have summarised the considerations below.

### Principle

- The number of residential units envisaged to be necessary to meet the population growth of Duleek over the plan period is 239 units. Discounting extant units and units completed or under construction, there is a balance of 118 units.
- The Planning Authority is precluded from the consideration of residential development on A2 New Residential/Phase II lands within the current Plan period and the proposal is therefore a material contravention.
- Planning Authority is proposing to downzone these lands to “Rural Area” as detailed in the draft County Development Plan which was on display until 06/03/20.
- The Planning Authority acknowledges recent judgments and decisions in relation to Phase II lands for the purposes of SHD proposals.
- Notwithstanding the indicative density of 25dph as set out in the evaluation under Variation 2 of the CDP, the Planning Authority is satisfied that the proposed density is acceptable given the surrounding context and having regard to section 6.11 of the Sustainable Residential Development in Urban Areas Guidelines (2009) in relation to edge of centre sites in smaller towns.

- Internal street hierarchy is not particularly well articulated/Concerns also exist in relation to the design speed/in relation to the cul-de-sacs to the western side of the site.
- Overall, the layout presents at an appropriate scale and form with two-storey units throughout.

#### Phasing of Development

- The sequentially favourable direction of phasing would be from east to west having regard to the urban footprint of Duleek/Recommended that the roads infrastructure, crèche/childcare facility, urban park and some Part V housing is delivered early in the life of the development in the event of a grant of planning permission and prior to the occupation of certain phases of development.

#### Open Space, Landscaping & Boundary Treatment

- Aside from the urban park and allotment area, the proposal includes a number of pockets of open space which total c. 0.6ha or 13.8% of the zoned residential lands/short of the standards set out in section 11.2.2.2 of the CDP but should be considered in the context of the provision the urban park on zoned open space lands and cumulatively c. 34% of the overall site area.
- Landscaping proposals are generally acceptable, playground details would be welcome and some boundary treatments are queried
- Concerns over Boundary Treatment 2 (2m high concrete post and concrete panel fences) and Boundary Treatment 3 (2m high concrete post and timber panel fences with concrete gravel board), albeit to the rear of dwellings. Rendered and capped block walls should be used to divide back-to-back gardens.
- Boundary Treatment 4 (1.2m high metal estate railing) is welcome and an improvement on the previously proposed timber post and rail fence. Boundary Treatment 6 (dwarf stone walls) to areas of public view/amenity is also welcome.

#### Transport/Permeability/Sightlines

- Considered that the Applicant should contribute to junction upgrades.
- Objectives of the urban park could have been retained whilst connecting both the eastern and western portions of the proposed site through careful and

appropriate design/design segregates the sites from one another in terms of vehicular permeability resulting in the need for two external access points located in close proximity which from a road safety and convenience point of view is considered to be an undesirable junction arrangement.

- No vehicle permeability is provided between the eastern and western portions of the proposed site. This would result in unnecessary service vehicle traffic movements onto the R150 between the two sites and from a road safety and convenience point of view it is considered that this arrangement is undesirable.
- Not apparent what the proposed design speed for internal roads is being set at. It is assumed that the design speed is 30 km/h/internal sightlines and forward visibility should be in accordance with DMURS, which for 30 km/h is 23m.
- The development incorporates several narrow, linear open spaces on the perimeter of the development/ number of streets which effectively front onto dead space/ both an unattractive and an inefficient use of space and overall is undesirable
- It is noted that there is a lack of development frontage onto the R150/results in a layout that does not create a sense of enclosure which is likely to lead to a poor perception of safety due to a lack of passive surveillance and thus discouraging pedestrian and cyclist activity
- Noted that the provision of a verge, cycle track and trees provides alternative measures that facilitate an urban context/can manage speeds to an appropriate level along the R150.
- Noted that there appears to be a number of junction turning radii and horizontal curves that are substandard/should ensure all junction turning radii and horizontal curves are in accordance with DMURS guidelines.
- Internal desire lines have been appropriately catered for throughout the proposed development/raised tables are provided at all pedestrian crossings.
- Cul-de-Sacs proposed are quite extensive and long and thus restrict vehicular movement and permeability within the proposed site/will also force all refuse vehicles to undertake reversing manoeuvres/turning heads in order to mitigate this risk is not ideal, bays may become inaccessible due to inappropriate

parking/recommended that the Applicant revises the layout to facilitate more vehicle permeability.

- Car parking bays have been provided in close proximity to a number of the internal junctions/recommended to revise the layout and remove the conflicting parking bays.
- Parking provision is in line with the Development Plan
- Bicycle parking spaces proposed by the Applicant are acceptable.
- Applicant has provided 10 no. dedicated mobility impaired car parking spaces which
- Electronic Vehicle Charging and Go-Car provision considered acceptable.

#### Surface Water

- Broadly meets the requirements of Meath County Council Water Services Section/conditions recommended.

#### Ecology

- Section 7 of Ecology Report sets out a number of recommendations and these should be implemented in full.
- Bat survey took place on March 16<sup>th</sup>/sub-optimal period for a bat activity survey/A number of mitigation measures are set out in the report and these should be implemented in full.
- Hedgerows/Tree lines are a key ecological feature of the site/survey data and details of the existing habitat is very limited/Hedgerow Survey should be undertaken/Details on the extent of hedgerow removal should be included/suitable mitigation measures should be proposed/Tree survey report identifies that 326m of hedgerow will be removed as part of the development/This should be retained.
- The proposed development lies 453m south of Duleek Commons pNHA – This pNHA is proposed for calcareous marsh and fen habitats/ EclA states that ‘The works will not impact upon groundwater resources locally and impacts to groundwater levels in the fen are unlikely/The EclA references on page 35 – ‘A

report on the potential hydrological impacts of the proposed development has been carried out by Dr Robbie Meehan/queries if this report is accessible.

#### Flood Risk

- Site is in Flood Zone C and is therefore at low risk of flooding/no objections to the proposed development.

#### Appropriate Assessment

- Heritage Officer – concur with the conclusions of the AA Screening/An Bord Pleanála is invited to consider the efficacy of the NIS having regard to the Heritage Officers comments above in respect of site ecology.

#### Environmental Impact Assessment

- An Bord Pleanála is invited to consider the necessity for an EIAR having regard to Schedule 7 of the aforementioned Regulations.

#### Other

- Applicant would be required to provide the following documents; a site specific Construction and Demolition Waste Management Plan and a Construction Environmental Management Plan/Conditions recommended.
- Part V – Condition recommended
- Special contribution and standard development contributions required.
- Taking in Charge - community food garden should be retained within management company or residence association control.
- Conservation Officer has no conservation objections.

#### Conclusion

- Planning Authority acknowledge the recent High Court judgment in Highlands Residents Association and anor v An Bord Pleanála and ors in respect of Phase II proposals.
- Planning Authority note that a discussion of the Guidance Note on Core Strategies (DEHLG, November 2010) was not apparent in the final judgement of 02/12/20.

- Meath County Council invites the Board to consider alterations to the development in this regard where it considered appropriate to do so.

9.1.4. Appendix 5 of the Chief Executives Report includes Minutes of Laytown-Bettystown MD Meeting held on 14/01/21. Matters raised by Elected Members included:

- The impact of additional traffic on the town/need for a HGV ban or bypass and other road improvements.
- Capacity of the local schools/need for a secondary school in the town/additional traffic associated with those having to travel to schools in Navan or Drogheda.
- Is there adequate social facilities in Duleek.
- Positive aspects of the development - applicant being a local company/contributing to local employment and the economy/proposed open space to include the allotments and urban park/improved connectivity between other estates and the GAA facility.
- Absence of the electric wires being visible on the website graphics/Cost to the developer of undergrounding the cables would be prohibitive.
- Wueried the capacity of the local authority to manage and maintain the open spaces.
- Landscaping of the open spaces should be designed in such a way as to minimise the maintenance required.
- Concerns regarding the proposed pond/open attenuation area in terms of the potential health and safety implications/underlined the need for a closed attenuation system.
- Impact of this development, if granted, on the core strategy either before and after the draft County Development Plan is adopted/lands are to be dezoned in the draft plan based on the core strategy/If granted, it will be zoned in the future plan and this will have implications for zoned land elsewhere.
- Expressed reservations around the adequacy of the proposed number of car parking spaces.
- Requested that the Part V units be disability proofed.

## 10.0 Prescribed Bodies

### An Taisce

- Concerns regarding the lawfulness of the in pre-application consultations with potential applicants for Strategic Housing Development applications.
- Pre-Application Opinion makes no reference to achieving sustainable mobility or the overarching national Smarter Travel policy
- Expected that the giving of the new SHD role to An Bord Pleanála would see some coherent consideration of strategic planning in the Greater Dublin Area (GDA)/the opposite is the case as shown by continued SHD Board consents for car-based commuter housing in the GDA.
- Opinion furthermore fails to address the Environmental Impact Assessment implications of cumulative impact.
- Only cycling measure proposed is on page 22 is for a 1.75m cycleway along the development site boundary along the R150.
- Recent court judgment in Highlands Residents Association v. An Bord Pleanála which concluded that the Board lacks the jurisdiction to grant permission for development on lands zoned Phase II Residential/submitted that the judgment precludes the Board from granting permission in this case.
- Housing estate to the south west of the site, “The Belfry,” which was permitted in disregard of sequential development principles/constitutes one of the worst examples of the mal planning in County Meath, which the 2003 McEvoy and Smith v. Meath County Council High Court judgment has failed to resolve.
- Previous application on this site Ref. SA/70588 was refused on a number of grounds including prematurity.
- Application has not been justified on sustainable transport grounds in providing new housing location where access to employment will be predominantly non-car based as required in Smarter Travel 2009.
- Bus service connection is poor and safe protected cycling route connectivity to the village centre, main school, Plattin, Drogheda and other locations is non-existent.

- Duleek and Plattin lack an employment and service base for the level of housing which has been promoted and permitted by Meath County Council in recent decades on the arterial roads around Duleek.
- Application would exacerbate the impact of unsustainable car-based commuter housing
- No statistical information to support claim that the village of Duleek is well served by public transport
- Traffic and Transport Assessment - does not meet any reasonable standard for a Traffic and Transport Assessment/makes no reference to the overarching national Smarter Travel policy or achieving sustainable mobility.
- Go Car use still constitutes a car trip for sustainable mobility purposes.
- No safe cycling lane connection to the centre of Duleek/to the main school/to Drogheda.

### **Irish Water**

Applicant has been issued a Statement of Design Acceptance for the development. Conditions suggested.

## **11.0 Screening**

### **11.1. Environmental Impact Assessment (EIA)**

11.1.1. S (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

11.1.2. It is proposed to construct 142 no. residential units on a site within an overall area of approx. 5.7 ha. The subject site is currently in agricultural use. The site is located on

the edge of Duleek town centre. The area is characterised by low density housing to the north, east and south. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any Natura 2000 sites (as discussed below). The development would predominately be for residential use with a single storey creche building and an urban park. It would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Meath County Council, upon which its effects would be marginal.

11.1.3. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential use under the Meath County Development Plan 2013-2019. This Development Plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site on the edge of the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended),
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 11.2. **Appropriate Assessment**

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

### Compliance with Article 6(3) of the Habitats Directive

- 11.2.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 11.2.3. The applicant has submitted a Natura Impact Statement (NIS) with the application (September 2020). This has been prepared by Whitehill Environmental.
- 11.2.4. Section 2.1 'Field Studies' (p11) of the NIS notes that a visit to the site was conducted on November 27<sup>th</sup> 2019. Section 3 'Screening' screens for AA. A detailed description of the development is set out therein. It is stated that wastewater from the site will be directed to the Duleek Wastewater Treatment Plant, which discharges into the River Nanny. Surface water from the site will be attenuated with a controlled outflow to greenfield run-off rates and discharged offsite. It is noted that there is an existing Local Authority owned surface water manhole located at the south of the site near the proposed eastern entrance. A 450mm diameter surface water drainage pipe extends eastwards from this manhole within the R150 road reserve. It is proposed that the outflow from the attenuation tanks will connect to this manhole, and to the

local surface water network. Class 1 bypass separators will be installed on the surface water network prior to each soakaway and will prevent contamination in the event of an oil spillage.

11.2.5. Section 3.2 of the NIS notes that the natural habitats within the study area are limited, and consist of arable crops (BC1), dry meadows and grassy verges (GS2), hedgerows (WL1), treelines (WL2) and watercourses (FW2). In terms of water features, it is noted that the application site lies with the Nanny-Delvin Hydrometric Area and Catchment and the Nanny (Meath) Sub-Catchment and Sub-Basin. There is small unnamed stream/drainage ditch within the site. This is referred to within the NIS as both ‘an open ditch’ and ‘a stream’. This flows eastward along the perimeter of the GAA pitch, through the centre of the site along a hedgerow, whereupon it turns and flows south. At the edge of the application site, and at the current entrance to the field at the R150, this watercourse enters a manhole, whereupon it enters the surface water drainage network of Duleek for eventual discharge into the Kellystown Stream. The Kellystown Stream flows in a north-easterly then a southerly direction, along the outskirts of Duleek and it flows into the River Nanny just south of the town, at a point approximately 1.2km east of the application site.

11.2.6. In relation to the ‘Zone of Influence’ of the proposed development, Section 3.3 of the NIS identifies 5 no. Natura 2000 sites within a 15km radius of the proposed development and are listed and summarised in Table 1 of the NIS. This Table is reproduced below:

Table 1

<b>Site Name &amp; Code</b>	<b>Distance from Site</b>	<b>Qualifying Interests</b>	<b>Connectivity</b>
The River Boyne and River Blackwater SAC 002299	3.9km north-west	<ul style="list-style-type: none"> <li>• River lamprey (Lampetra fluviatilis)</li> <li>• Salmon (Salmo salar)</li> <li>• Otter (Lutra lutra)</li> </ul>	None – The Site is in a Separate Catchment and there is no hydrological connectivity

		<ul style="list-style-type: none"> <li>• Alkaline fens</li> <li>• Alluvial forests with alder <i>Alnus glutinosa</i> and ash <i>Fraxinus excelsior</i></li> </ul>	
The River Boyne and River Blackwater SPA 004232	4km north-west	Common Kingfisher <i>Alcedo atthis</i>	None – The Site is in a Separate Catchment and there is no hydrological connectivity
The Boyne Estuary SPA 004080	10.6km north-east	Shelduck ( <i>Tadorna tadorna</i> ) Oystercatcher ( <i>Haematopus ostralegus</i> ) Golden Plover ( <i>Pluvialis apricaria</i> ) Grey Plover ( <i>Pluvialis squatarola</i> ) Lapwing ( <i>Vanellus vanellus</i> ) Knot ( <i>Calidris canutus</i> ) Sanderling ( <i>Calidris</i>	None – The Site is in a Separate Catchment and there is no hydrological connectivity

		<p>alba)</p> <p>Black-tailed Godwit (Limosa limosa)</p> <p>Redshank (Tringa 19etanus)</p> <p>Turnstone (Arenaria interpres)</p> <ul style="list-style-type: none"> <li>• Little Tern (Sterna albifrons)</li> <li>• Wetlands &amp; Waterbirds</li> </ul>	
<p>Boyne Coast and Estuary SAC 001957</p>	<p>10.8 km north-east</p>	<ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand</li> <li>• Atlantic salt meadows (Glauco-</li> </ul>	

		<p>Puccinellietalia maritimae)</p> <p>Embryonic shifting dunes</p> <ul style="list-style-type: none"> <li>• Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes)</li> </ul>	
<p>River Nanny Estuary and Shore SPA</p> <p>004158</p>	<p>10.9km east and 13km downstream</p>	<ul style="list-style-type: none"> <li>• Oystercatcher (Haematopus ostralegus)</li> <li>• Ringed Plover (Charadrius hiaticula)</li> <li>• Golden Plover (Pluvialis apricaria)</li> <li>• Knot (Calidris canutus)</li> <li>• Sanderling (Calidris alba)</li> <li>• Herring Gull (Larus argentatus)</li> <li>• Wetlands &amp;</li> </ul>	<p>The application site is in the same catchment as this SPA, and connectivity is considered to exist as the watercourse on site drains to the Local Authority surface water drainage network of Duleek. This eventually discharges to the River Nanny in Duleek. The downstream distance is 13km,</p>

		Waterbirds	and given this hydrological distance, significant effects are unlikely but cannot be ruled out
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11.2.10. Section 3.4 'Identification of Potential Impacts' states the application site is within the same catchment as the River Nanny Estuary and Shore SPA (004158). It is noted that the existing watercourse on site is hydrologically connected to this SPA, via the Duleek Surface Water Network which eventually discharges to the River Nanny, and it is noted that the downstream distance is 13km. The NIS states that mitigation measures are required, during both construction and operation, to protect water quality in the stream which runs through the site, and these measures are outlined within the NIS and within the Ecological Impact Assessment (EclA). It is stated that, in the absence of same, an accidental pollution event might occur during the construction or operation of development which could impact on the water quality of this stream. It is concluded within Section 3.4 of the NIS that it is not possible to exclude that the proposed development, either individually, or in combination with other plans and projects, will have a likely significant effect on the River Nanny Estuary and Shore SPA and an NIS is considered appropriate. There is no discussion within the NIS on what the likely significant effects on the qualifying interests of the River Nanny Estuary and Shore SPA might be. Table 1 of the NIS states that significant effects are, in fact, unlikely, but cannot be ruled out. Potential likely significant effects on all other Natura Sites, including those listed in Table 1 above, were ruled out due to either their distance from the proposed development, or that they lie outside of the zone of influence, and no impacts are likely to arise.

11.2.11. Section 4 of the NIS is the Appropriate Assessment (Stage 2) and considers if the development will result in significant adverse impacts to the integrity of the River Nanny and Shore SPA. This section sets out a detailed description this Natura 2000 site, including the species and habitats therein. The SPA supports five wintering bird species in numbers of national significance. In relation to bird species, it is noted that

the main threat to wintering birds is increased levels of disturbance by beach users. For each Qualifying Interest of the SPA, the specific conservation objective is either to maintain or restore the favourable conservation condition of that interest, by defining a list of attributes and targets which are indicative of the conservation status of that interest. For the Annex I bird species of the SPA, the main attributes are population trend and distribution, whilst the targets aim to ensure that the long term population trends of the species are stable or increasing and that there is no significant decrease in the numbers or range of areas used by the species, other than that occurring from natural patterns of variation. It is set out the two main objectives for the SPA are to maintain the conservation of the Special Conservation Interests (SCI) species, and to maintain the wetland habitat. Factors that can undermine the former objectives include habitat modifications, disturbance and ex-situ factors outside of the SPA. The NPWS Standard Data Form, NPWS (2017) lists the highest threats and pressures for the site and they include walking, horse-riding and non-motorised vehicles and continuous urbanisation.

11.2.12. Section 5 of the NIS sets out a series of mitigation measures to protect water quality in the area surrounding the proposed development. These measures are also set out in the EclA. To my mind these are better described as best practice construction measures. It is stated that these measures are put in place to protect certain designated sites and species, although the specific sites and species are not identified. It is assumed this statement refers to the bird species of qualifying interest in the SPA and the wetlands therein. The NIS does not set out how a deterioration in water quality in the watercourse traversing the application site, some 13km upstream of the SPA, would have an impact on the qualifying species or habitat of this SPA, or how such a deterioration in water quality could result in the significant adverse impacts to the integrity of this SPA, save for a general statement referring to an impact on water quality in the River Nanny Estuary and Shore SPA.

#### Inspector's Screening Assessment

11.2.13. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS), prepared by Whitehill Environmental (dated September 2020) and is based on other

information on file, including, but not limited to, the Ecological Impact Assessment, on my observations during my site visit and is based on information available on the National Parks and Wildlife Service (NPWS) website.

#### The Project and Its Characteristics

11.2.14. See the detailed description of the proposed development in section 2.0 above.

#### The European Sites Likely to be Affected (Stage I Screening)

11.2.15. In determining the Natura 2000 sites where there is potential for likely significant effects arising from this development, I have had regard to the scale and nature of the project, the proximity of the site to any Natura 2000 sites, and I have had regard to any hydrological or hydrogeological links to any Natura 2000 sites. I have been aided in this regard by the EPA Appropriate Assessment Mapping Tool<sup>3</sup>, as well as by the information on file, including observations on the application made by prescribed bodies and Third Parties, as well observations made on my site visit.

11.2.16. In relation to the European Sites likely to be affected by the proposed development, I concur with the reasoning as set out within AA Screening Section of the NIS, insofar as impacts on The River Boyne and River Blackwater SAC, 002299, The River Boyne and River Blackwater SPA 004232, The Boyne Estuary SPA 004080 and the Boyne Coast and Estuary SAC 001957, are concerned, and in my view significant likely significant impacts on same can be ruled out at the preliminary stage given the distance from the site to same, and the lack of any hydrological connection to same.

11.2.17. There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase. There will be no loss or alteration of habitat associated with the above Natura 2000 sites as a result of the proposed development. There is no evidence to suggest that the site encompasses any ex-situ breeding, roosting, staging or foraging habitats for any of the species listed as Species of Conservation Interest (SCI) for any of the Natura 2000 sites above.

11.2.18. Specifically in relation to The River Boyne and River Blackwater SAC, and The River Boyne and River Blackwater SPA, the closest Natura 2000 sites to the proposed

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<sup>3</sup> www.epa.ie

development, the intervening minimum distance between the proposed development and these sites is approximately 4 km. This is sufficient to exclude the possibility of significant effects arising from disturbance and from emissions from the site including, but not limited to noise, increased traffic volume and increased lighting. In relation to potential loss of ex-situ habitat, the site is primarily comprised of tillage farmland, with limited areas of other habitat types, and there is no evidence, within the NIS, within the submissions or from any other evidence on file, that the site is a suitable breeding, roosting, staging or foraging habitat for the one bird species listed as a qualifying interest of the River Boyne and River Blackwater SPA (Kingfisher).

11.2.19. However, given the identified hydrological connection between the application site and the River Nanny Estuary and Shore SPA 004158, as detailed above, and within the NIS, it is my view that any potential impact on same should be subject to a more detailed Screening Assessment.

11.2.20. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

#### Potential Effects on River Nanny Estuary and Shore SPA (site code 004158)

11.2.21. The qualifying interests of the River Nanny Estuary and Shore SPA 004158 are as listed in Table 1 above. As noted above, save for a reference to a deterioration in water quality within the SPA, the nature of potential impacts on the SPA are not set out in detail with the NIS. In fact, Table 1 of the NIS (as reproduced above) explicitly states that any potential significant effects are unlikely. This, to my mind, should rule out the need to progress to Stage 2, given the tests to progress to Stage 2 are to demonstrate that potential effects are both likely and significant. The NIS sets out a series of mitigation measures to protect water quality during construction and operation, and as noted above, it is stated that these are being put in place to protect certain designated sites and species, although the specific sites and species are not identified. To my mind, the mitigation measures set out in the NIS (and within the EclA) are better described as best practice construction measures, and would be put in place regardless of any hydrological connection to a Natura 2000 site. Section 2.13.5 of the Construction Environmental Management Plan (CEMP) also sets out

standard pollution control measures, as relates to water quality of the water course passing through the site, and again these are not put in place specifically to reduce or eliminate impacts on a Natura 2000 site. The NIS, apart from a general reference to a deterioration of water quality in the River Nanny Estuary and Shore SPA, does not refer to any specific impacts on the qualifying interests or habitats of the SPA, resulting from a deterioration in water quality, and the NPWS documentation referred to within the NIS (and referred to in further detail below) does not cite a deterioration in water quality as a major threat to the SPA. Therefore there are no identified impacts, specific to the River Nanny Estuary and Shore SPA, or to any other Natura 2000 sites, that would require specific mitigation measures that fall outside the category of best practice measures. I note that the downstream distance from the watercourse on the site, to the SPA, via the surface water network and the River Nanny, is some 13km, and there is no discussion in the NIS of how this distance would result in a dilution or otherwise of any potential pollutants arising from the application site, during construction or operation.

11.2.22. In considering whether likely significant effects on the River Nanny Estuary and Shore SPA will, in fact, result, I have had regard the conservation objectives for the this SPA, which are accessible on the NPWS Website, and are as described in Section 11.2.11 above. Essentially, the specific objectives are to maintain the conservation of the Special Conservation Interests (SCI) species and to maintain the wetland habitat. The Standard Data form identifies the medium level treats and pressures from anthropogenic activity, including horse-riding, walking and continuous urbanisation. The Conservation Objectives Supporting Document identifies factors that can work against achieving the objectives for the site and these include habitat modification, disturbance in or near the site and ex-situ factors, namely that habitat changes or disturbance within the immediate hinterland of the SPA, or in areas ecologically connected to it. There is no reference to a deterioration in water quality impacting on the achievement of the conservation objectives for the SPA in any of supporting documentation available on the NPWS website.

11.2.23. At its closest point the site is approximately 10.3km away (as the crow flies) from the boundary of the SPA. In reality however, this distance is greater as hydrological pathways follow the course of the drainage network and the River Nanny to the SPA, and the NIS states this distance as 13km. In relation to the potential for a

deterioration in water quality, I note that best practice construction measures as described in the EclA, the CEMP and the NIS (although not described as same within the NIS), will help to prevent contaminants entering the watercourse. Notwithstanding these measures, should they fail, potential pollutants that could enter the watercourse running through the site include silt and hydrocarbons/chemicals, given that construction works typically generate fine sediments and could also generate result in accidental spills of oils and other toxic chemicals. Should these enter the watercourse running through the site and in turn, enter the surrounding surface water network, before finally discharging into the River Nanny Estuary and Shore SPA, it is likely that such pollutants would be significantly diluted by the point of discharge into the SPA, given the distance involved and the volume of water relative to the volume of likely pollutants, and therefore likely significant effects on the SPA listed above can be ruled out in my view.

11.2.24. During the operational phase of the development, the main potential impacts relate to surface water run-off and foul water drainage. In relation to surface water, attenuation and SuDS are incorporated into the scheme to ensure no negative impact to the quality or quantity of run off to the surface water drainage network. These installations have not been introduced to avoid or reduce an effect on any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any hydrological connection to a Natura 2000 site.

11.2.25. In terms of pollution arising from wastewater discharge, I note the Screening Section of the NIS does not consider the potential for an impact arising from same, and subsequently this is not discussed in the Appropriate Assessment itself. However the proposals for wastewater are discussed in Section 3 of the NIS and it is stated that wastewater from the application site will be directed to the Duleek Wastewater Treatment Plant, which is fully Licensed by the EPA (Reg No. D0133-01). This treatment plant discharges into the River Nanny. The 2017 Annual Environment Report for this treatment plant which is available on the EPA website, concluded that the final effluent from the Primary Discharge Point was compliant with the Emission Limit Values set for this plant in its EPA License. The discharge from the wastewater treatment plant is not having an observable negative impact upon water quality in the River Nanny and discharge from this plant is having no observable negative impacts

upon the Water Framework Directive status of the River Nanny. Given that this WWTP discharges to the River Nanny, there is potential for an interrupted and distant hydrological connection between the site and the River Nanny Estuary and Shore SPA, due to the wastewater pathway. However, given that there is evidence that the discharge from the wastewater treatment plant is not having an observable negative impact upon water quality in the River Nanny, likely significant impacts on the River Nanny Estuary and Shore SPA, as a result of wastewater generated by the development at operational stage, can be ruled out.

11.2.26. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Duleek WWTP, I consider that any potential for in-combination effects on water quality on the River Nanny Estuary and Shore SPA, can be excluded. Furthermore, other projects within the Meath Area which can influence conditions in the Natura 2000 sites listed above are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

11.2.27. It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the River Nanny Estuary and Shore SPA, or any other Natura 2000 site, and that Stage II AA is not required.

AA Screening Conclusion:

11.2.28. Notwithstanding the submission of an NIS with the application, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on River Nanny Estuary and Shore SPA, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 12.0 **Assessment**

12.1. The main planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Material Contravention
- Traffic and Transportation
- Design and Layout/Mix
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Flood Risk
- Site Services
- Ecology/Trees/Hedgerows
- Archaeology
- Other Issues
- Planning Authority's Submission

## 12.2. Principle of Development

### Zoning

12.2.1. The development site is subject to two zonings. The eastern and western portions of the site are zoned for residential development under the current Meath County Development Plan 2013-2019 and have the zoning objective A2 New Residential:

*To provide for new residential communities with ancillary community facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy.*

12.2.2. The residential zoning is qualified as 'Phase II (Post 2019)'. I have considered the implications of this qualification in detail in the relevant section below.

12.2.3. The middle portion of the site has the zoning objective F1:

*To provide for and improve open spaces for active and passive recreational amenities.*

12.2.4. This element of the site is also subject to an overhead cable line buffer (25m) due the presence of ESB cables traversing the site.

### Phase I and Phase II Lands

12.2.5. Development plan Variation No. 2, adopted in 2014 sets out an Order of Priority for lands in Duleek, based on a sequential approach and a Residential Land Evaluation. The Appendix to the Duleek Written Statement sets out the Evaluation of Residential Zoned Lands. This current SHD site is split between 'Site E' and 'Site G' for the purposes of residential evaluation and ranked 7th and 9th (out of 10 sites) respectively and are allocated for Phase II release, with sites ranked 1 to 6 being allocated for Phase 1 release.

12.2.6. Duleek Written Statement Strategic Policy SP 3 applies:

To operate an Order of Priority for the release of residential lands in compliance with the requirements of CS OBJ 6 of the County Development Plan as follows:

*i) The lands identified with an A2 'New Residential' land use zoning objective corresponds with the requirements of Table 2.4 Housing Allocation & Zoned Land Requirements in Volume I of this County Development Plan and are available for residential development within the life of this Development Plan.*

*ii) The lands identified with an A2 'New Residential' land use zoning objective but qualified as 'Residential Phase II (Post 2019)' are not available for residential development within the life of this Development Plan.*

12.2.7. The current County Development Plan was due to expire in January 2019, however its review was paused pending the completion of the Eastern and Midlands RSES, which came into effect on June 28th, 2019, and was further delayed due to Covid 19 issues. The new development plan is now due to be adopted in 2021. The existing development plan remains operational in the interim.

12.2.8. In relation to the Phase II designation of the site, the applicant states that the current application is submitted post 2019 and therefore the timing and phasing of the lands is now moot. It is further stated that the evaluation of the lands for phasing was a desktop assessment and did not take flood risk or accessibility of services infrastructure into account. The applicants further contend that there has been a failure to release Phase I development land for housing in accordance with the core strategy. As such it is stated it is logical and reasonable to progress the release of the subject site Phase II lands. This this end, reference is made to RSES guidance which states that where lands have not been released for development, Local

Authorities should consider other suitable lands with better prospects for delivery in the short term.

12.2.9. In relation to the issue of Phase II lands, and its implications for this current proposal, I note the High Court judgement of Justice Denis McDonald delivered on 2nd December 2020, between Highlands Residents Association and Protect East Meath Ltd. (applicants) and An Bord Pleanála, Minister for Culture Heritage and the Gaeltacht and the Attorney General (respondents) and Trailford Limited and Meath County Council (Notice Parties) [2020 No:238 J.R.], which relates to a site with Phase II (Post 2019) zoning within the Drogheda Environs in County Meath. The judgement determined that the Board was precluded by section 9(6)(b) of the 2016 Act from granting permission for the development. I consider that the Board are similarly precluded from granting permission in this case within the current Development Plan context, given that the lands are also designated Phase II lands. I also note in this regard the recent Board decision to refuse permission for development on Phase II (Post 2019) zoned lands in Dunshaughlin, Co. Meath, ref ABP-308396-20 and in Enfield, Co. Meath, ref. ABP-308155-20, on grounds relating to the Phase II status of the lands in question. The Planning Authority also refers to recent judgments and decisions in relation to Phase II lands for the purposes of SHD proposals, as do a number of the observers on the proposal.

12.2.10. Notwithstanding the above conclusion, I now propose to consider the remaining issues in order to provide as complete an assessment as possible.

#### Core Strategy/Housing Allocation

12.2.11. The current Development Plan Core Strategy designates Duleek as a 'Small Town' on the fourth tier of the county settlement hierarchy. The Duleek Written Statement, as contained in Volume 2 of the Meath County Development Plan 2013-2019, envisages Small Towns within the Dublin catchment, such as Duleek, growing at a moderate rate, with growth more closely linked to local demand, as opposed to facilitating population and housing pressures arising from its location within the Greater Dublin Area.

12.2.12. Development Plan objectives SS OBJ 12, SS OBJ 13 and SS OBJ 14 apply:

- SS OBJ 12 To ensure that Small Towns develop to cater for locally generated development and that growth occurs in tandem with local services, infrastructure and demand.
- SS OBJ 13 To ensure that Small Towns grow in a manner that is balanced, self sustaining and supports a compact urban form and the integration of land use and transport.
- SS OBJ 14 To ensure that in Small Towns, no proposal for residential development should increase the existing housing stock (including permitted units) of the town by more than 15% within the lifetime of the Development Plan.

12.2.13. Table 2.4 of Core Strategy as set out in County Development Plan provides a housing allocation of 239 units to Duleek over the 2013 – 2019 period. Table 2.5 indicates that there are a further 169 units committed to in the form of extant planning permissions (as of December 2014). The submission from the Planning Authority on this application gives more up to date figures in relation to the remaining allocation for Duleek and it is stated that, discounting extant units and units completed or under construction, there is a balance of 118 units remaining.

12.2.14. The applicant contends that only 36 units have been completed in Duleek within the Development Plan period, and the applicant's central argument is that the Core Strategy has failed to deliver the required housing demand in Duleek. The applicant has calculated a shortfall of 399 housing units in Duleek which were not delivered during the Development Plan period. This figure is calculated utilising the 239 units as set out in Table 2.4 and the unbuilt extant figure of 160 (as of Nov 2011). In relation to units currently under construction, the applicant refers to a total of 74 units currently under construction (on Site A and Site H, as referred to in the Council's Order of Priority). Reference is made to a total of 9 extant units. It is argued that the proposed development could be accommodated within the existing housing allocation without breaching same. In relation to the issue of sequential development, the applicant argues that the subject development is sequential in that it follows the line of existing housing on the Navan and Downstown Roads and is within the development footprint of the town

12.2.15. There is clearly difference between the applicant's consideration of the number of units allocated for Duleek and the Council's. However, the unit allocation of 239

units for Duleek is clearly set out in the plan, and there is no provision in the plan to include the extant unit figure of 160 as of November 2011 in this allocation. In fact, Section 2.3.2 of the Development Plan states that centres which have a substantial number of units committed and which are not at the highest tiers of the hierarchy will not be a focus for new residential development for this Development Plan.

12.2.16. The council have stated that there are 118 units remaining in terms of allocation for Duleek, and I am satisfied that this is the most appropriate figure. The proposed development is for 142 units, and if permitted, would breach this remaining housing allocation by 24 units.

12.2.17. In relation to the locational characteristics of the site, I note the Planning Authority have carried out a comparative analysis of the site and have designated it Phase II. I also note it is proposed to be de-zoned within the new Development Plan. As such it is clear the Planning Authority do not consider the site to be suitable for development, within this current plan, or within the lifetime of the next Development Plan.

12.2.18. In relation to the general suitability of the site for development, I note that the site is within the development boundary of the town as set out in the current plan, although should it be de-zoned to 'Rural', it will then fall outside the development boundary. Notwithstanding, in my view, the site is sequential to current residential development, and, subject to the proposed footpath and associated crossings to the north of the site being delivered, will be relatively well served by existing roads and footpath infrastructure. There are no critical capacity issues in relation to water supply or surface water/wastewater infrastructure, and the site does not appear to be subject to flooding (see further discussion in Section 13.8). It is within a reasonable walking distance to the town of Duleek. In terms of achieving housing targets, it would not appear that the core strategy housing targets have been achieved in Duleek over the current Development Plan period, and the development of this site would go some way towards the achievement of same, although I acknowledge that the proposal would represent a breach of 24 units, over and above the remaining housing allocation for the town.

#### Density

12.2.19. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.

12.2.20. In relation to regional policy, Duleek lies within the Core Region as defined in the RSES-EMRA. Within the RSES-EMRA this is described as 'home to over 550,000 people, includes the periurban 'hinterlands' within the commuter catchment of the Dublin metropolitan area, which extends into parts of the Midlands, Louth and beyond the Region into Wexford, with some of the youngest and fastest growing towns in the Country'.

Relevant objectives within the RSES-EMRA include:

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

12.2.21. Having regard to the location of the site on the edge of the built up area of Duleek, I consider that it corresponds with the definition of a 'peripheral and/or less accessible urban location' as per s.28 Sustainable Urban Housing: Design Standards for New Apartment Guidelines (hereafter referred to as the Apartment Guidelines). These guidelines indicate that developments at low-medium densities (<45 units/ha) are generally suitable for such locations. This includes sites in small towns and villages.

12.2.22. Having regard to the provisions of Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), Duleek is defined in the 'small town' category, and I consider a density range of 20-35 units to be applicable in this instance, as it fits the category of 'Edge-of-Centre' sites where such a density range applies.

12.2.23. The above cited Sustainable Residential Development in Urban Areas Guidelines, 2009 also set out general goals of which are to which are *inter alia* to prioritise walking, cycling and public transport, and minimise the need to use cars and to provide a good range of community and support facilities where and when they are needed and that are easily accessible.

- 12.2.24. In terms of the accessibility of the site, the site is located approximately 1km from the centre of Duleek, which equates to an approximately 12 minute walk, with various existing and proposed pedestrian links to the town, from the south via the R150, from the north via the Downstown Road, or via The Steeples estate. In terms of public transport, Duleek is served by the 105 Drogheda to Blanchardstown route and the 103X Navan to Dublin bus routes and the nearest bus stops are within 5 minutes walk of the site. While these bus routes are not particularly frequent, they do provide a service to surrounding urban centres and serve to reduce reliance on car based transport.
- 12.2.25. In terms of community and support facilities, the town of Duleek provides a range of services, as set out in Social Infrastructure Audit submitted with the application.
- 12.2.26. While I acknowledge that the density of 33 units/ha is somewhat lower than the figure cited in the Apartment Guidelines, the range is in keeping with that cited in the Sustainable Residential Development Guidelines for sites such as these, and overall I consider the proposed density to be appropriate for the site. The Planning Authority consider the proposed density to be acceptable.
- 12.2.27. I note that observer submissions have stated that there are too many homes on the site and the proposal constitutes overdevelopment. However, I do not consider that a lower density would be appropriate, given the need provide density at a level that is in line with national and regional policy as referred to above.

### 12.3. **Material Contravention**

- 12.3.1. Section 15 of the Planning Report sets out a statement in relation to a possible Material Contravention of the Development Plan (Statement to Justify Material Contravention of the Development Plan 2013-2019).
- 12.3.2. The Planning Authority state that they are precluded from the consideration of residential development on A2 New Residential/Phase II lands within the current Plan period and the proposal is therefore a material contravention the Development Plan.
- 12.3.3. The submission from FP Lougue Solicitors, on behalf of Protect East Meath Limited, states that the applicant has not made a sufficient case for a material contravention of the Meath County Development Plan.

- 12.3.4. The Applicant's Material Contravention Statement states that there is a potential material contravention of the development plan as relates to core strategy and phasing of the lands as Phase II post 2019, and as relates to density.
- 12.3.5. The material contravention statement refers to the relevant criteria of Section 37(2)(b) of the Planning and Development Act as amended and considers how the proposal complies with same. In relation to criteria (i) it is stated that the development is by definition strategic development, and that the development supports achieving the objectives of Rebuilding Ireland. It is further stated that it is evident that there is a significant pent up demand for 400 housing units in Duleek and that there is a failure to deliver the core strategy in line with national policy. Furthermore it is stated that the lands can be considered to be Tier 1 zoned lands and that there is therefore a national strategic justification to grant permission for the subject development.
- 12.3.6. In relation to criteria (ii) it is stated that that the housing allocation for Duleek is unclear and in some cases incorrect, as set out in the Core Strategy. It is further stated that the approach to density is inconsistent. The phasing of the subject site as Phase II when the services infrastructure is in place to deliver housing in an immediate time frame is also questioned. It is further contended that the Core Strategy has not delivered the necessary housing and that there is conflict therefore with the presumption the core strategy will provide for housing need.
- 12.3.7. In relation to criteria (iii) it is stated that Duleek is located within the Core Region as defined by the RSES-EMRA and that the subject lands are already served by existing infrastructure with sufficient wastewater and water capacity. The subject proposal is also supported by the provisions of Rebuilding Ireland and relevant Section 28 Guidelines.
- 12.3.8. In relation to criteria (iv), the material contravention statement refers to other investment in the area including the GAA pitches and clubhouse and new community centre as reference is made to surrounding residential development.
- 12.3.9. In relation to the issue of material contravention, Section 9(6) of the 2016 Act provides:
- (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4

even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

12.3.10. In relation to same, I concur that the proposal would materially contravene the current Development Plan as relates specifically to the phasing of the lands (as Phase II), the core strategy of the plan as relates to housing allocations, and as relates to density limitations as set out in the plan.

12.3.11. Section 9(6) of the 2016 Act also states that;

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

12.3.12. It is my view that the subject application falls on this basis, given the High Court judgement of Justice Denis McDonald delivered on 2nd December 2020, and as referred to above. The Board is therefore precluded from granting permission in this instance.

## **12.4. Traffic and Transportation**

### Existing and Proposed Roads Infrastructure

12.4.1. The site is located approximately 1km to the west of Duleek Town Centre. The main frontage of the site is onto the Navan Road, the R150, to the south, with a pedestrian link existing to the town centre. The R150 at this point is subject to a 60km/hr speed limit. The site also has frontage onto the Downtown Road. There is no existing footpath in the southern side of this road, to the north of the site, but there is a footpath on the opposite side of the road.

12.4.2. In terms of proposed infrastructure, the development will be split into two areas served by separate internal roads, which will both join the main road network via priority T-junctions with regional road R150, on the southern boundary of the site. To the southern boundary a pedestrian footpath and a cycle path is provided that extends along the southern boundary. The footpath ties into existing footpaths at the south-eastern and south-western extent of the application site. To the north-eastern boundary of the site a footpath is proposed along the extent of the boundary with an uncontrolled pedestrian crossing at either end to tie into the existing footpaths. A cycle path is also proposed at this location. I have assessed the proposal's

compliance or otherwise with DMURS in Section 12.5 of this report. The below assessment encompasses the remaining transport issues.

### Access

- 12.4.3. Two no. accesses are proposed onto the R150. The Traffic and Transport Assessment refers to the road speed limit on the R150 at the location of the proposed entrances as 50km/hr and that the required sightline distances of 70m can be achieved from both entrances. The report does not reference the 'Design Manual for Roads and Bridges', which sets out sightline requirements, but it is assumed that the 70m sightline distance above is derived from same. The same document sets out a sightline requirement of 90m in cases where the road speed limit is 60km/hr, as it is in this instance. It has not been demonstrated that these 90m sightlines are achievable. I have some concern in relation to the provision of two separate access points onto the R150, given the potential for relatively high speeds on this road. While the road is relatively straight travelling east towards Duleek, beyond the entrance to the GAA club it curves considerably east of this, and I cannot conclude that sufficient sightlines can be achieved. The Planning Authority, while not specifically citing a concern in relation to sightlines, do raise road safety concerns in relation to the provision of two access points.
- 12.4.4. I note that a previous application on this site (PA Ref - SA/70588), for a development of 63 dwellings, 3 shops and a crèche, was refused for 5 no. reasons, including inadequate sight lines. As noted in Section 4 of this report, no additional details and/or drawings in relation to the above application are on file and no additional details are available on the Meath County Council website.
- 12.4.5. A Stage 1 Road Safety Audit (September 2020) has been submitted with the application. This confirms a speed limit of 60 km/hr on the southern boundary of the site and notes a 50km/hr speed limit on the Downstown Road. A number of issues of concern are raised in the Road Safety Audit and some of these are responded to within Appendix D of the Road Safety Audit, and appear to have been incorporated within the final design. However, I consider that issues of concern remain as follows.
- 12.4.6. I note, for instance, the lack of speed survey data, as relates to vehicles travelling along the R150, within any of the application documents. The lack of any obvious traffic calming measures along this stretch of the R150 points to the potential for high

traffic speeds. Furthermore, and as highlighted in the Road Safety Audit, existing conditions for cyclists along the R150 are relatively poor and 3 minor accidents, including one involving a cyclist, were recorded in close proximity to the site. The submission from An Taisce also contends that there is no safe cycling connections to the centre of Duleek and surrounding areas. A further issue identified within the Road Safety Audit was the location of the westernmost proposed site access which will present an overlapping visibility splay with the existing GAA club access. Vehicles stationed at either location waiting to turn out onto the R150 will obstruct clear forward visibility to and from a vehicle parked in the adjoining access, presenting an increased risk of pulling out type incidents and right angled collisions.

12.4.7. Other concerns relating to road safety include the nature of the proposed cycle paths. I have concern about the abrupt termination of these, especially along the R150, and I question the functionality of these cycle paths. Section 12 of the Civil Engineering Report refers to two-way cycle lanes that have been provided along both the R150 road to the south boundary and the Downstown Road to the north east. It is very unlikely, in my view, that these cycle paths would be used as a two-way route, given the lack of connection to an existing cycle path network. A cyclist travelling west on the R150 is very unlikely to traverse the road, to utilise the path, and traverse back across the road once it terminates, and to my mind such manoeuvres would increase the risk to cyclists rather than reduce risk, and such an arrangement would be unacceptable from a road safety perspective. The proposal perhaps should have undergone an iterative process wherein any road safety issues associated with the cycle paths were considered by an amended Road Safety Audit, and mitigation measures set out therein, in order to reduce risk to cyclists.

12.4.8. In relation to the proposed footpath provision to the north of the site, this is welcomed as it provides additional connectivity into the town. This is linked to the existing footpath infrastructure by way of two uncontrolled crossings. I note that an observer submission has raised concern in relation to the potential noise from same, as well as a loss of a parking space that currently exists where the crossing is proposed. However, no signals are associated with the crossing and there will be no noise impacts as a result. In relation to the loss of parking, it would appear that the proposed location of the crossing is within the current public realm and there does not appear to be formal parking spaces at this location.

### Car and Cycle Parking

12.4.9. It is proposed to provide 270 car parking spaces. I note that an observer has raised concern in relation to the lack of parking associated with this development. An Taisce have stated that the proposed development will result in unsustainable car based commuting. Elected Members have also raised concern in relation the adequacy of the number of car parking spaces proposed.

12.4.10. The proposed car parking provision is in line with Development Plan standards, and the Planning Authority have expressed satisfaction with same. While the proposed development will be within walking distance of the centre of Duleek, which will help to reduce private car use, I also consider that the overall car parking provision is appropriate, given the need for car storage, and the limited frequency of the public transport service in Duleek (as discussed in Section 12.2 above).

12.4.11. Cycle parking provision is in line with relevant standards and I am satisfied with same.

### Impact on Existing Road Network

12.4.12. The applicant has submitted a Traffic and Transport Assessment. From the capacity analysis undertaken, it is shown that the proposed development will not have an adverse effect on the surrounding road network. Capacity issues at the Abbey Road junction in Duleek village will require mitigation measures by 2037 at current predicted growth rates, whether or not the proposed development proceeds to construction. The Planning Authority has requested a special contribution towards the upgrade of same, and should Board be minded to approve, I consider that this would be appropriate. The Planning Authority have not questioned the conclusions of the Traffic and Transport Assessment. Elected Members however raise concerns in relation to traffic impacts. An observer submission has stated that the proposal will result in a build-up of traffic on the Downstown Road. However, having regard to the conclusions of the Traffic and Transport Assessment, and having regard to the limited scale of the proposed development, I am satisfied that the impacts on the surrounding road network will be limited, in terms of additional traffic volumes.

### Conclusion on Transport Issues

12.4.13. Given the substantive reason for refusal, as recommended in Section 12.2 above, I am of the opinion that the application should be advised that there is a lack of

information submitted with the application, in relation to existing or proposed traffic calming measures along the R150, to speed survey data for existing traffic movement along the R150, and in relation to the adequacy of the proposed cycle lanes on the R150, and in the absence of such information, the Board cannot conclude that the proposal would be acceptable from a road safety perspective. Furthermore, it has not been demonstrated that the requirement for a 90m sightline from both access points is achievable. Should a subsequent application be made on this site, the applicant should be advised to address the road safety issues as referred to above, by way of a revised Traffic and Transport Assessment and a revised Road Safety Audit, with possible amendments to the proposed access points and road and cycle infrastructure required.

## 12.5. Design and Layout/Mix

12.5.1. The applicant has submitted a number of documents relating to the design, layout and visual appearance of the development including an Architectural Design Statement, a Universal Design Statement and a Landscape Design Report. Further justification for the design and layout of the proposal is also set out in the Planning Report. In general it is stated that the height, scale and use of materials reflect the existing massing, form and character of recent housing developments in the area. The Design Statement evaluates the proposal against the criteria in context of the 12 design criteria set out in s.28 Urban Design Manual – A Best Practice Guide and it is stated that the proposal complies with same. In relation to the criteria set out the Urban Design Manual, I have evaluated the proposal in relation to same below.

*Criteria 1 Context – How does the development respond to its surroundings?*

12.5.2. The height, scale and appearance of the proposal is generally in keeping with the surrounding development style, albeit given the relatively higher density on this site compared to existing developments, the proposal includes terraced housing and apartment units, all at two storey in height. While some greater height could potentially be accommodated on the site, the overall scale and quantum of development is generally appropriate for the site's context (see also discussion also on density above).

*Criteria 2 Connections - How well connected is the new neighbourhood?*

12.5.3. The proposal allows for pedestrian and cycle connections from the R150 to the Downstown Road, where none exist at present, which will be especially beneficial for the existing and future residents wishing to access the GAA Club. While I have highlighted the lack of an existing cycle network to tie into in Section 12.4 above, I do not consider that the wider provision of same is within the gift of the applicant and the planning authority have not suggested a condition in relation to same, should the Board be minded to grant the proposed development.

12.5.4. In terms of internal connections, the development is truncated down the middle by virtue of the open space zoning and the overhead line buffer, which has served to limit road connections between the eastern and western elements. However, there is sufficient pedestrian and cycle links between the two areas of the development.

12.5.5. In relation to wider connections, the proposal will allow for a relatively short walk into the town of Duleek with access to the services therein. In terms of public transport, Duleek is served by the 105 Drogedha to Blanchardstown route and the 103X Navan to Dublin bus routes and the nearest bus stops are within 5 minutes walk of the site.

*Criteria 3 Inclusivity - How easily can people use and access the development?/*

*Criteria 9 Adaptability How will the buildings cope with change?*

12.5.6. The Universal Design Statements confirms that the proposed residential development has been designed to be compliant with Part M of the Building Regulations and ‘Building for Everyone: A Universal Design Approach’ with regard to accessibility and that all houses have level access, with falls and gradients minimised wherever possible on the site. It is further stated that a wide variety of unit types has been provided. I do not necessarily concur with this statement. The proposed housing mix is as per the table below

<b>Unit Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
House	0	44 (31%)	38 (27%)	0	<b>82</b>
Apartment	0	60 (42%)	0	0	<b>60</b>
<b>Total</b>	<b>0</b>	<b>104</b>	<b>38</b>	<b>0</b>	<b>142</b>

12.5.7. The proposal comprises predominantly two bed units (73%), with all of the apartment units being 2 bed. While 38 no. 3 bed houses are provided, I consider that the mix does not provide for household choice and the creation of a diverse community and, at the very least, a wider variety of apartment units should have been considered. While the Planning Authority have not provided a comment on the mix, there is little discussion within the application documents in relation to the justification of the proposed unit mix, and whether it will meet market demand, especially in the context of smaller household sizes, and it is notable that no 1 bed units are provided for. It is likely that there is an extensive provision of 3 bed or larger houses in the area, given the nature of surrounding residential estates. I am not satisfied that the mix of units within the overall development is such as would accommodate a range of age cohorts and household types, including downsizing and freeing up underoccupied larger units in the vicinity.

12.5.8. However, given the substantive reasons for refusal as recommended above, should the Board be minded to refuse the application, I consider that the applicant should be advised to either provide further justification for the mix of units proposed, or to provide a greater mix of units, should a subsequent application be made on this site.

12.5.9. *Criteria 4 Variety - How does the development promote a good mix of activities?*  
Given the nature of the proposal as a Strategic Housing Development, the proposal is by definition limited in terms of the mix of uses that can be provided. However, a crèche of 320 sq. m, has been provided, as well as large public park with play areas, and a variety of open spaces, including the community food garden. Overall therefore a good mix of activities has been provided.

12.5.10. *Criteria 5 Efficiency - How does the development make appropriate use of resources, including land?*

I have considered the issue of the quantum of development, in terms of density, in section 12.2 above, and have concluded that overall the quantum of development is appropriate for the site context, and makes efficient use of the A2 Residential Zoned Land. The Building Lifecycle Report sets out a number of energy efficient measures that have been incorporated into the design, which will ultimately reduce the overall light and heat demand of the finished units. The proposal also provides EV charging points.

*Criteria 6 Distinctiveness - How do the proposals create a sense of place?/Criteria 12 Detailed Design - How well thought through is the building and landscape design?*

12.5.11. In terms of detailed design, the proposed materials are a mix of brick and render, which are utilised to a similar effect on the majority of units. While the application purports to provide character areas, this is not necessarily evident in the variety of house types provided nor in the materiality of same. However, the scheme does address internal road junctions/corners in a positive manner, with dual frontage end of terrace units provided at a number of locations. The apartment units, which are relatively taller in height (albeit still at 2 storeys) provide an edge along the internal streets and along the Downtown Road. While the scale of the scheme does not necessarily require the need to provide a wide variety of character areas, there was perhaps an opportunity to provide additional housing typologies within the overall development. However, the proposal is bisected down the centre by the large urban park, and the housing typologies on both sides of the park serve to tie the proposal together as a coherent development. The overall environment created by the development is considered to be pleasant given the large urban park provided within easy access of the units, as well the car free walkway to the south-west of the site.

12.5.12. In relation to the potential for a street frontage along the R150, I consider that the open space zoning within the centre of the site works against the provision of same, along the entire R150 frontage. Notwithstanding, the opening up of the site, and the removal of the hedgerow, to my mind, creates a safer urban environment than currently exists, and could potentially help to reduce vehicle speeds along this section of road, given that road users would be more aware of the potential for vulnerable road users in the vicinity. Notwithstanding, the applicant has not provided sufficient information in relation to sightlines and the proposal raises other road safety concerns (see Section 12.4 above).

*Criteria 7 Layout - How does the proposal create people friendly streets and spaces?*

12.5.13. The proposal consists of a mix of 82 no. terraced housing units and 60 no. apartments units, with an urban park proposed running in north south direction through the site. Cycle and pedestrian paths provides permeability through the site linking the R150 and the Downtown Road. To the northern and southern boundaries of the site pedestrian and cycle path have been provided. Two access

points are proposed, which according to the applicant's Design Statement is necessary to avoid residential roads crossing the urban park, which is zoned F2 'Open Space'.

12.5.14. In relation the layout of the proposal, the planning authority have stated that the internal street hierarchy is not particularly well articulated and appears inconsistent with the movement details set out in the Landscape Design Report. Concerns also exist in relation to the design speed within the development. The Planning Authority is also concerned in relation to the cul-de-sacs to the western side of the site. However, it is stated that, overall, the layout presents at an appropriate scale and form with two-storey units throughout.

### DMURS

12.5.15. I share some of the concerns of the Planning Authority in relation the internal street layout, in particular to the lack of calming measures for the internal road running along the northern boundary of the site. I consider the inclusion of these measures could be sought by way of condition however. In relation the remainder of the site I note shared surfaces are provided along Elm Road and Chestnut Row with a further shared surface provided to the north-east of the development (along Willow Row). The planning authority has raised concerns in relation to the cul-de-sacs within the western portion of the development is problematic. DMURS (2019) states that that when designing new street networks designers should implement solutions that support the development of sustainable communities. In general, such networks should be based on layouts where all streets lead to other streets, limiting the use of cul-de sacs that provide no through access and should maximise the number of walkable/ cycle routes between destinations. In this instance while 'Elm Row' and 'Chestnut Row' are effectively cul-de-sacs for vehicular traffic, the pedestrian path to the south of these roads still allows for pedestrian and cycle access to the east, and an access to the GAA grounds is shown to the west.

### *Criteria 8 Public Realm - How safe, secure and enjoyable are the public areas?*

12.5.16. The large urban park to the middle of the site benefits from passive surveillance from the housing and apartment units, and the pedestrian and cycle paths allow for car free links to the north and south. The linear walkway to the south is overlooked by

the apartment units. The shared surface areas are a positive element to the proposal and provide for a more secure environment for residents.

*Criteria 10 Privacy and Amenity – How does the scheme provide a decent standard of amenity?*

12.5.17. I have discussed compliance with this criteria in detail in Sections 12.7 (in terms of neighbouring amenity) and 12.6 (in terms of residential standards). In general however it is considered that the amenity space provided for each unit is sufficient in quality and quantity, and I note that 100% dual aspect units are provided. Subject to conditions, neighbouring privacy is maintained. Defensible areas ensure that privacy is maintained for the proposed ground floor apartment units. Adequate storage is also provided within each of the units. In relation to boundary treatments, details of same can be sought by condition.

*Criteria 11 Parking - How will the parking be secure and attractive?*

12.5.18. The quantum of parking is discussed in Section 12.4. In terms of compliance with Criteria 11, I note that the proposed car parking will be easily accessible to residents and that the spaces are overlooked by residents and pedestrians. Quality materials are used for parking areas and secure cycle parking facilities are provided.

## 12.6. Residential Amenities/Residential Standards

### Daylight and Sunlight

12.6.1. No Daylight/Sunlight or Overshadowing Assessment has been submitted with the application which considers *inter alia* potential daylight or sunlighting provision within the proposed scheme and overshadowing within the scheme.

12.6.2. However, of note, is that all of the apartment units are dual aspect, which maximises daylight penetration to the units. Of the 15 no. apartment blocks, 13 no. have windows facing within 90 degrees of due south, and the remainder have at least one elevation that do not have any built form in close proximity. The kitchen living dining areas of Unit Type T4 A have glazed balcony doors and a window, as do Unit Types T4 B, which are triple aspect. The apartment blocks are limited to two storeys in height and do not have balconies overhanging lower windows, which could serve to reduce daylight to the units. The majority of the apartment units do not have any obstructions that could serve to materially reduce the level of daylight to the units.

Those blocks that have built form in relatively close proximity, such as the two no. apartment blocks to the immediate north of the linear pathway and situated between Elm Row and Chestnut Row, benefit from at least one aspect that is unobstructed. As such it is reasonable to conclude that the proposed units will achieve good internal daylight and sunlight levels.

#### Proposed Outdoor Amenity Areas

12.6.3. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The applicant has not submitted any documentation considering this issue, in the form of a shadow analysis and commentary on same.

12.6.4. However, in relation to the area of public open space, the linear park and the community garden, given the extensive areas of same and the limited height of the proposal, it is very likely that these amenity spaces will exceed the standard above. In relation to the proposed communal and private amenity spaces associated with the apartment and housing units, these spaces will receive unobstructed sunlight from either the east, south or west during the day, and it is likely that the above BRE standard will be achieved. Again I note the 2 storey nature of the proposal, which serves to limit the level of overshadowing of the proposed amenity spaces.

#### Public, Communal and Private Open Space

12.6.5. An urban park of 11,197 sq. m. is proposed on the site. A community garden of 1,802 sq. m. is proposed for the western extent of the site. A number of other open spaces are provided throughout the site which total 5,926 sq. m. in area. In general, the open space provision is acceptable and the large urban park will provide a welcome amenity for the area.

#### Communal Open Space

12.6.6. I note the proposed communal open space serving the apartment units totals 892 sq. m, exceeding the requirement of 420 sq. m as set out in the apartment guidelines. The layout of same is somewhat dissatisfactory however, in that the communal spaces proposed are individually small, and appear as limited areas adjacent to the apartment units. The usability of same is questionable. However, the site benefits from the large urban park which will be of benefit to the end users of the apartment units, and on balance the overall open space provision is therefore acceptable.

### Private Open Space

- 12.6.7. All private amenity spaces in the development comply with or exceed the minimum required floor areas for private amenity spaces.

### Internal Overlooking

- 12.6.8. I have some concern in relation to the overlooking of the rear gardens of the two storey terrace and end of terrace housing, from the proposed two storey apartment units. However, should the Board be minded to approve the development, appropriate screening can be conditioned to mitigate against same.

### Dual Aspect

- 12.6.9. All of the units are dual aspect.

### Floor Area

- 12.6.10. The apartments are designed to exceed minimum standards with the all of the units sized to be at least 10% larger than the minimum space standards.

## **12.7. Surrounding Residential Amenity**

- 12.7.1. There are a number of standalone residential dwellings in relatively close proximity to the site including to the north of the site on Downstown Road (the occupier of this dwelling has submitted an observation on the application). This is formed of main dwelling house and an outhouse to the rear. The main dwelling house is set back approximately 37m from the flank elevation of the two-storey apartment block to the north-west of the site. To the north-east there are detached residential dwellings located within the Steeples estate on the opposite side of Downstown Road. These properties front onto Downstown Road. The closest of these properties, No. 53 The Steeples, is located 30.9m from the closest two storey apartment block. There are two no. single storey dwellings located to the immediate east of the site, one of which shares a boundary with the site the occupier of this dwelling has submitted an observation on the application). The main dwelling is set back 25.6m from the flank elevation of the closest apartment block. At a further remove from the site there are large residential housing estates to the north (The Hawthorns) and north-east of the site (The Willows). To the south-east on the southern side of the R150 is Bathe Abbey and to the south-west is The Belfry Estate. There are also a number of

standalone detached dwellings in the immediate area with access either from the Downstown Road or the R150.

Impacts on Downstown Road, Duleek. Co.Meath. A92 X7T2 (Property directly to the north of the site)

- 12.7.2. I note the submission from the property to the north (the address is recorded as Downestown Road, Duleek. Co.Meath. A92 X7T2) which refers to the occupant's south facing back garden which has the advantage of winter sun. The submission also contends that, because of its scale and proximity to the boundary, the nearest proposed apartment block would block sunlight and cast a constant shadow on south facing garden. Photographs and montage images are provided to support this assertion.
- 12.7.3. In relation to the loss of daylight and sunlight to the rear windows of this property, I note that the distance from the existing window to the nearest built form (a 2 storey apartment building) is 37m. This is a considerable distance, and is considered sufficient to ensure no impact on daylight or sunlight levels to these rear windows, particularly having regard to the limited height of the proposed apartment block and the southerly aspect of the existing rear windows.
- 12.7.4. In relation to any potential overshadowing of the rear garden of this property, it is possible that the two storey apartment building could have some impact on the garden, given that a two storey apartment building is situated approximately 2.1m from the boundary of this garden. However, it is of note that this garden benefits from an open aspect to the east and west, and any potential impact on sunlight from a southerly direction would be limited, in my view, due to the limited height of the proposed block.
- 12.7.5. In terms of overlooking and loss of privacy, I note that the occupier of this property states that the first floor level balcony and windows (main living area) on type T4 apartments directly overlook his property which would result in a total lack of privacy and has provided photographs and montages to support this assertion. In relation to same, I note that the distance from existing rear elevation of this property to nearest proposed built form (two storey apartment block unit Type T4) is 37m. While there are window and balconies to the side elevation of this apartment block, the separation distance from any existing windows is sufficient to ensure that any

overlooking will be minimal, and it is of note that the distance exceeds the Development Plan standard of 22m (as set out in Section 11.2.2.2 of the Development Plan). I do consider that the rear garden of this dwelling could be adversely impact in terms of overlooking, however, given that there is only a 2.1m separation distance between the proposed apartment block and the boundary with the above dwelling. This would result in the users of the balcony having clear views into this neighbouring rear garden. While in a more urbanised setting this sometimes cannot be avoided, I consider that the site is not so constrained in this instance and this overlooking could have been avoided. However should the Board be minded to grant permission, then I consider that the balcony, and the double doors of the unit closest to this property should be omitted from the proposal, and revised plans submitted to the planning authority for approval. The proposed unit in question still benefits from amenity space at ground floor level. The remaining windows at first floor level facing towards this dwelling are a wc and a store room and can be fitted with obscured glazing, which can form part of the above condition.

Impacts on properties within the Steeples Estate (facing onto Downtown Road towards the development site)

12.7.6. In relation to the impacts on properties to the north west of the site within the Steeples Estate, I note that the closest distance from an existing window (at no. 53 The Steeples) to the nearest proposed built form (a two storey apartment block) is 30.9m. Given this distance and the limited height of the proposed development, it is not considered likely that there will be an impact on daylight or sunlight levels to these properties, and the rear gardens of these properties will not be impacted upon as a result of overshadowing from the development.

12.7.7. In relation to potential overlooking of these properties, the separation distance is 30.9m and exceeds the Development Plan standard of 22m (as set out in Section 11.2.2.2 of the Development Plan). As such, any impact resulting from overlooking will be minimal and acceptable, having regard to the site's location within the urban footprint of Duleek.

Impacts on property to the immediate east (single storey bungalow)

12.7.8. There are no windows on the flank elevation of this property and there is also a shed to the immediate west of the property between the house and the application site.

There are however windows to the rear and there are proposed 2 storey dwellings approximately 25m to the south-east of this dwelling. However, given the limited height of the proposal, the separation distance between the existing dwelling and the proposed development, and the orientation of the proposed development relative to the existing dwelling (i.e. the existing dwelling will still receive sun from a southerly aspect), impacts on daylight and sunlight levels to this property are unlikely, and it is unlikely any material impacts resulting from overshadowing will occur. It is of particular note that the existing relatively high evergreen tree boundary is proposed to be removed as part of the development, which will result in improved sunlight penetration to this property.

- 12.7.9. In relation to overlooking, I note the occupier of this property has raised concerns in relation to same. However, given the separation distance cited above (c25m), which exceeds Development Plan Standards of 22m, and the fact that there are no directly opposing windows, it is my view that any impact resulting from overlooking on this property will be minimal and acceptable, having regard to the site's location within the urban footprint of Duleek.

Conclusion regarding impacts on daylight, sunlight and overshadowing on surrounding properties.

- 12.7.10. Having regard to the detailed assessment above, it is unlikely that there will be a material impact on sunlight or daylight levels to surrounding properties nor will there be a material impact on overshadowing of surrounding amenity spaces, and any impacts as a result of overlooking will be minimal and acceptable, having regard to the context of the site with the urban footprint of Duleek. While I note that the applicant did not carry out tests on sunlight or daylight impacts (in terms of APSH or VSC analysis), or submit a shadow analysis, I am satisfied that there is sufficient information on file to allow me to carry out the assessment and to reach the conclusion above.

## 12.8. Flood Risk

- 12.8.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by "ensuring flood risk management informs place-making by

avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities”.

- 12.8.2. The Planning Authority have raised no objections in respect of Flood Risk.
- 12.8.3. A Site Specific Flood Risk Assessment (FRA) has been submitted (18<sup>th</sup> September 2020) with the application. This notes that the published CFRAM mapping for the proposed development site indicates that the subject site is in flood zone C (<0.1%AEP) and is therefore described as having a low flood risk. It is further noted, that as the site is located in Flood Zone C, a Justification Test is not required. The SFRA states that the closest upstream node to the site is approximately 475m south west of the site on the Kellystown stream. Estimated 0.1% AEP flood levels at this node are 29.42 MOD. Proposed finished floor level at the development range from 32.475 MOD to 36.105 MOD. This means that there will be a minimum freeboard of 3.055m. The closest downstream node is located 330m south of the site with a 0.1% AEP flood level estimate of 26.85m MOD. This would provide a free board of 5.625m to the lowest proposed finished floor level at the development.
- 12.8.4. There is no discussion or even acknowledgment within the SFRA of the existing unnamed stream that runs through the site, save for the reference to the open drains on the site. This watercourse was clearly evident on the day of my site visit. It is described in the applicant’s Natura Impact Statement (NIS) as an unnamed stream flowing eastward along the perimeter of the GAA pitch and flows through centre of the site along a hedgerow, whereupon it turns and flows south. At the edge of the application site and at the current entrance to the field at the R150, this watercourse enters a manhole, whereupon it enters the surface water drainage network of Duleek for eventual discharge into the Kellystown Stream. There is however, no evidence, in the form of flood mapping or from any of the submissions on the application, that this stream causes flooding of the site. The stream in question is not identified as a watercourse in EPA mapping. In terms of increased flood risk downstream, I note that the surface water from the site will be attenuated with a controlled outflow to greenfield run-off rates and discharged offsite. It is stated in the SFRA that the overall levels and site grading of the site will be largely retained when developed. The existing undeveloped site falls from the northwest to southeast and under current undeveloped conditions a significant portion of the surface water drainage

flow from large storm events will outfall into existing open drains on the site. When developed this same flow will be catered for in the proposed below ground drainage system while larger storm events greater than the 1:100 year event of critical duration (plus climate change allowance) will be allowed pond in natural depression storage in the landscaped areas of the site. The net effect will be such that no more off-site surface water flow will occur from the developed site above that of the current undeveloped greenfield runoff rates.

- 12.8.5. In conclusion, having regard to the location of the site outside of any identified flood zone, the lack of history of flooding on the site itself, to the conclusions of the Flood Risk Assessment and to the surface water management proposals as set out therein and in other relevant application documents, and the lack of an objection from the Planning Authority, as relates to flooding issues, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions.

## 12.9. Site Services

### Foul

- 12.9.1. It is proposed to make two connections for the site to the existing wastewater gravity sewer within the R150 Road reserve. Irish Water's submission on the application has not raised any capacity issues in relation to wastewater.

### Surface Water

- 12.9.2. The applicant's Civil Planning Report notes that the site is unsuitable for infiltration and therefore the internal surface water drainage within the site is required to be attenuated with a controlled outflow to greenfield runoff rates and discharge offsite.
- 12.9.3. The proposed surface water drainage strategy for the development will include collection of runoff from the developed site via below ground gravity pipework and directing this to attenuated storage tanks where suitable storage and flow control is provided to limit the surface water outfall from the site to greenfield runoff rates. All private parking areas within the site will be permeable as agreed with the Local Authority and an allowance for 50% runoff from these has been allowed for in the attenuation tank storage volume calculations. The Planning Authority has stated that the proposals for surface water broadly meets the requirements of Meath County Council Water Services. Subject to the conditions as suggested by the Planning Authority, I consider the surface water proposals to be acceptable.

## Water Supply

12.9.4. Irish Water have not indicated any supply constraints and the proposed developed will be supplied by the existing water supply network.

### **12.10. Ecology/Trees/Hedgerows**

12.10.1. A badger survey, a bat report and an Ecological Impact Assessment (EclA) have been submitted with the application.

12.10.2. The submission from FP Lougue Solicitors on behalf of Protect East Meath Limited states that the bat survey was not carried out at the correct time of year and does not rule out the presence of bats.

12.10.3. The EclA notes that the application site is not within or immediately adjacent to any nationally designated site, such as a Natural Heritage Area or a proposed Natural Heritage Area. The report further notes that the proposed development works within the application site will take place on areas of low – medium biodiversity value. The natural habitats within the study area are limited and consist of arable crops (BC1), dry meadows and grassy verges (GS2), hedgerows (WL1), treelines (WL2) and watercourses (FW2). The EclA notes these habitats within it are generally highly modified. The arable habitats on the site are of low biodiversity value. However it is noted that the grassy verge habitats would provide some suitable sources of nectar for local populations of pollinating insect and that the hedgerows and treelines within the site would provide suitable nesting sites for birds. It is also stated that some older, mature trees may also provide suitable roosting habitats for bats. The watercourse within the site is also of ecological value on a local level.

12.10.4. In relation to mammals, the EclA states that an assessment of potential bat habitats was undertaken in November 2019 and it was identified that there are some trees along the northern boundary of the site that may provide suitable roosting habitats for bats. These trees provide features such as cracks, hollows and ivy which are all suitable locations for bat roosts. There is also an agricultural shed on the site, and this would have limited suitability for use as a bat roost, although at this stage this cannot be ruled out. A separate bat survey was carried out for the site in March 2020 by Ash Ecology. The bat survey detected activity for three bat species within the site and overall, a low / moderate rate of bat activity was recorded, which was expected given the lack of woodland in the wider area. The majority of the activity occurred

along the mature treelines and over-mature hedgerows, some of which will be affected by this development. No activity was particularly evident by the sheds or along the *Laylandii* cypress treeline in the north of the site. The sheds are open to the front and exposed and there is little opportunity for crevices that would provide suitable roosting habitats. Likewise, despite the *Leylandii* trees being mature, they appear not to have cracks and crevices.

12.10.5. In relation to badgers, there were several rooting signs (feeding signs) at the edge of the field to the north. No badger latrines were found anywhere on site and these would be found where badger activity is frequent. Other mammal activity noted within the site included fox and brown rat. Hedgehogs, pygmy shrews and field mouse are also likely to occur. A limited range of birds were seen and/or heard within proposed development site during the site survey, these species included: Robin, Blackbird, Jackdaw, Rook and Pigeon. The EclA notes that it is likely that frogs occur within the site and one frog was noted during the mammal survey in May 2020. In relation to the watercourse running through the site, given the fact that this stream is culverted and piped upon emergence from the site, its overall fishery potential is likely to be quite low. It is likely to provide suitable habitats for small fish such as sticklebacks, whilst the freshwater invertebrates in the stream are likely to include species that are tolerant of moderate levels of sedimentation and pollution, i.e., molluscs, shrimp oligochaetes and freshwater lice.

12.10.6. In terms of wider impacts, impacts on the closest pNHA (Duleek Commons pNHA – 453m north of the application site) are ruled out due to the lack of an observed or visible geological connection between the karstified bedrock beneath the site and the Duleek Commons pNHA, and therefore impacts on this pNHA and its groundwater resources arising from works on the site are unlikely. It is also noted that fen is also hydrologically on a separate tributary of the Kellystown Stream to the application site and impacts upon the pNHA arising from surface water impacts are unlikely. While I note the comments of Meath County Council's Ecology Officer in relation to the accessibility of the Soils, Geology, Hydrogeology and Drainage Report, this report is, in fact, included in Appendix VI of the EclA and the conclusions in relation to groundwater impacts are supported by this report.

12.10.7. Potential impacts within the site include habitat loss and fragmentation, with the loss of hedgerows resulting in a slight negative impact on the local biodiversity value of

the site. The retention of the mature treeline at the back of the site along the northern boundary results in a neutral positive impact. Potential pollution of the stream is highlighted in the absence of mitigation measures. Disturbance to wildlife, including bird mortality, and impacts on mammals, including bats, cannot be ruled out in the absence of mitigation. At operational phase, there is potential impacts on bats as a result of lighting and potential for pollution of the watercourse.

12.10.8. A series of mitigation and monitoring measures are set out in Section 6.1 of the EclA and include measures to protect water quality and measures relation to construction waste management. Measures relating to tree removal and the limitations that apply to same are set out.

12.10.9. Specifically in relation to bats, and to the timing of the Bat Survey, the Bat Report acknowledges that the survey was at the start of the season so bat activity would be lower than in the summer months. A more appropriate time would appear to have been later in the season. However, I am of the view that the extensive mitigation measures as detailed in Section 4.2 of the Bat Report, and as set out in Section 6.1 of the EclA should ensure the protection of bats and conditions can be imposed to ensure that these measures are implemented. These measures relate to appropriate procedures to be followed prior to and after tree felling. Mitigation measures as related to other mammals are also set out in the report. Section 7 'Residual Impacts and Conclusions' of EclA concludes that the proposed development would have a neutral to positive impact on the local ecology and biodiversity of the area. Specifically, it is stated that the planning retention of the treeline on the northern boundary is positive as is the inclusion of 30% of the site for the creation of green areas, as well as the creation of new wetland habitats on the site.

12.10.10. I consider that, subject to the recommendations of the appraisal being carried out, the impact on ecology will be minimal and I concur with the conclusions as set out in Section 7 of the EclA. I concur that the biodiversity value of the arable area of the site is limited and that the retention of the treeline to the north, with the creation of the urban park and wetland are positive aspects of the development and will have an overall positive impact on ecology.

- 12.10.11. Specifically in relation to bats, while I acknowledge the submission from an observer in relation to the potential impacts on bats, I am satisfied that, subject to the measures as outlined in the EclA, and as set out in the Bat Report, being carried out there will be no adverse impacts on bats as a result of this development.
- 12.10.12. Specifically in relation to tree and hedgerows, a tree survey report has been submitted. This notes that the proposed site consists of the trees that are located at the existing north eastern entrance and in the hedgerow along the northern boundary. There are internal hedgerows running from the north eastern entrance to the southern boundary and a partial internal hedge running in an east to west direction from the corner of the GAA grounds. The external perimeter of the site is almost completely bounded by mixed native hedgerow. It is noted that a total of 52 trees and 326 meters of internal hedgerow were surveyed. The 40 no. existing leylandii trees to the north are to be removed as is a total of 316 m of hedgerow.
- 12.10.13. The tree survey report is somewhat limited in that it does not set out tree protection measures are set out for the trees to be retained. However, these protection measures could be required by way of condition. I noted that the vast majority of the hedgerow is to be removed. However I am of the view that making efficient use of the site, in terms of providing housing at an appropriate density, does not necessarily allow for the retention of such habitat. As such the loss of same, is on balance, acceptable.

## 12.11. Archaeology

- 12.11.1. An Archaeological Assessment (dated 19<sup>th</sup> August 2020) has been submitted with the application. This states that the site contains no Recorded Monuments, while the nearest such monument a church (ME027-038001) is located c. 0.6 km to the northwest of the site. The study area is located c. 0.5 km west- of the zone of archaeological potential for Duleek town (ME027-038). It is stated that the area has been subject to two previous archaeological assessments including geophysical survey and targeted test trenching. No archaeological features or deposits were exposed or identified and no finds were recovered. The submitted Archaeological Assessment therefore recommends that the development can proceed without any further archaeological mitigation.

12.11.2. I am satisfied therefore that, no significant negative impact on archaeology will result and no further measures are required.

### 12.11.3. **Other Issues**

Social Infrastructure/Schools – Elected Members have raised concerns in relation to capacity of schools and query if there is adequate social provision in Duleek. An observer has also raised concern in relation to school capacity. The provision of additional schools is not within the gift of the applicant although in this regard I note that the Social Infrastructure Audit submitted with the application details the location of schools in the area and states that there is capacity within same to accommodate the proposed development.

Pre-Application Procedure – The submission from FP Lougue Solicitors on behalf of Protect East Meath Limited refers to the Pre-Application Consultation Procedure associated with SHD applications and concludes that this process breaches rules as relates to public participation. An Taisce also raise concerns in relation to same. I do not consider that a comment on same is appropriate in the context of this planning report.

Phasing – The applicant proposes to deliver the majority of the development, including the majority of residential units, the crèche and the urban park within Phase 1 with the remainder in Phase 2. This is considered appropriate.

### 12.12. **Planning Authority's Submission**

12.13. The submission of the Planning Authority does not set out a recommendation *per se* in relation to the application but sets out a number of observations and concerns which I have sought to address in this report and which I will summarise below.

- Principle/Material contravention/Phase II lands – These issues are considered in Section 12.2 above.
- Layout – This issue is considered in Section 12.5 above.
- Phasing of Development – This issue is considered in Section 12.11.3
- Open Space, Landscaping & Boundary Treatment – This issue is considered in Section 12.5 above.

- Transport/Permeability/Sightlines – These issues are considered in Sections 12.4 and 12.5 above.
- Ecology including impacts on bats/loss of hedgerows/impact on Duleek Commons pNHA – These issues are considered in Section 12.10 above.

### 13.0 Conclusion and Recommendation

The housing density is acceptable with regard to the location of the site at the edge of the built up area of Duleek. I am also satisfied that the development does not result in a significant flood risk at the development site or upstream or downstream and the impacts on the ecology of the site are acceptable.

However, notwithstanding the above, the development is located on lands zoned for residential development under the Meath County Development Plan 2013 – 2019 and identified in the order of priority as Phase II lands. A recent High Court judgement in respect of a development on similarly zoned lands within the same administrative area has found that the Board are precluded from granting permission under section 9(6)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 at the present time. In this regard it is recommended that permission is refused on this basis.

Furthermore, as per my assessment in Section 12.4 above, given the lack of information on file, I cannot conclude that the proposal would be acceptable from a road safety perspective, as relates to vehicular traffic, and it has not been demonstrated that the requirement for a 90m sightline from both access points is achievable. Concern is also raised in relation to the safety, usability and functionality of the proposed cycle path infrastructure. Should the Board be minded to refuse the application, as per the substantive reason for refusal as outlined in Section 12.2 above, the applicant should be advised to address these road safety issues, by way of a revised Traffic and Transport Assessment and a revised Road Safety Audit, with possible amendments to the proposed access points, and road and cycle infrastructure, required, should a subsequent application be made on this site.

Furthermore, the applicant should also be notified that a robust justification for the proposed mix of units should also be included with any subsequent application, or a revised mix of units proposed.

## 14.0 Recommended Order

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: Meath County Council**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 01<sup>st</sup> December 2020 by Manley Construction Limited care of Reid Associates, 2 Connaught Place, Crofton Road, Dún Laoghaire, Dublin, Ireland.

#### **Proposed Development:**

The proposed development comprises:

(1) The demolition of existing agricultural sheds 129 sq.m and 37sq.m. and closure of existing vehicular entrance to shed.

(2) The relocation of one existing ESB pole on the western area of the site.

(3) The strategic housing development comprises the development of 142 residential units in total, on the residential zoned lands. This will include for a mix of 82 houses and 60 apartments comprising 44 two storey two bed houses, 38 two storey three bed houses, 60 two bed apartments, all two storey in 15 blocks with 4 apartments in each block, and all associated open space and service infrastructure including possible location of photovoltaic panels on roofs where this is required.

(4) Provision of a single storey creche, 320 sq.m floor area and associated outdoor play area.

The gross floor area of the housing and crèche is 13,382 sq.m.

(5) Provision of 270 parking spaces, 254 serving the residential units including provision of 2 Go Car sharing spaces and 16 parking spaces serving the crèche.

(6) The development provides for an urban park of 1.1197Ha on the open space zoned lands, ancillary other landscaped open space and play areas 0.5926 Ha., and a community garden of 0.1802Ha, comprising a total provision of 1.8925 Ha of open space and parkland.

(7) Associated internal roads, footpaths, cycle paths and all services infrastructure, bin storage and public lighting associated with the development.

(8) Provision of 256 cycle spaces throughout the development, with 76 allocated within rear gardens of houses and 180 spaces allocated to apartments.

(9) Provision of two public electric car charging points and integrated electric charging points to residential spaces.

10) Vehicular Access to the development is proposed via two vehicular entrances from The Navan Road, Duleek where the existing public footpath arrangement is reconfigured to provide for a new cycle path, footpath and planted verge connecting to the public footpath network.

(11) It is proposed to provide a new pedestrian entrance to the north of the site onto the Downstown Road and a new public footpath and cycle path along the northern boundary of the site and two proposed pedestrian crossings connecting the development to the Downstown Road public footpath network.

The application contains a statement setting out how the proposal will be consistent with the objectives of the relevant development plan.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development may materially contravene a relevant development plan or local area plan other than in relation to the zoning of the land in respect of the phasing ii post 2019 of the said lands, or in relation to the density proposed and compliance with the core strategy and or the allocation of housing units to Duleek.

A Natura Impact Statement has been prepared in respect of the proposed development.

## **Decision**

Refuse permission for the above proposed development based on the reasons and considerations set out below.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **Reasons and Considerations**

1. The subject lands are zoned 'A2' in the Meath County Development Plan 2013-2019 as varied, the objective of which is "to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy". The lands are identified as Phase II lands in Variation No. 2 of the County Development Plan where Strategic Policy SP1 seeks to operate an Order of Priority for the release of residential lands with Phase II lands stated as not available for residential development within the life of the Development Plan. Having regard to s.9 (6) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 the Board is precluded from granting permission for the development and therefore permission is refused.

#### Note:

The applicant should note that there is inadequate information submitted with the application in relation to sightlines and traffic calming measures along the R150, as well as in relation to the safety of the proposed cycle infrastructure along the R150. These matters should be addressed in any subsequent application on this site. The applicant is also advised that a robust justification for the proposed mix of units should also be included with any subsequent application, or a revised mix of units proposed.

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Rónán O'Connor  
Senior Planning Inspector

11<sup>th</sup> March 2021