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Donabate Portrane Community Council

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RE: Planning Application Fingal County Council Ref: F20A/0204 - Lands to the South of Main Street, Corballis East, Donabate, Co Dublin – The Construction of 55 no residential units, 3 no. retail units, public open spaces, upgrades to the public road, reconstruction of the existing car park serving Smyths Bridge House (a Protected Structure), upgrade of the existing entrance onto Main Street, internal access roads, water services including a pumping station, surface water attenuation tank and detention basin, public lighting, 1 no. ESB substation and utilities.

Dear Sirs,

We would like to submit an observation/submission/objection to the Planning Application registered under Ref: F20A/0204 pertaining to lands at Corballis East, Donabate, Co. Dublin.

We object to this proposal being granted permission for the following reasons:

Failure to Undertake Environmental Impact Assessment/Project Splitting

1. This site was most recently the subject of an application (Fingal Planning Ref: F18A/0618) seeking permission for “[t]he construction of strategic open spaces, upgrades to the public road, reconfiguration of the existing car park serving Smyths Bridge House (A Protected Structure), upgrade of existing entrance onto Main Street, new access from Balcarrick Road, internal access roads, water services and a pumping station, and utilities. These proposed works are to facilitate future residential development including reserved sites for new primary school and local neighbourhood centre at Corballis East, as provided for in the Donabate Local Area Plan 2016”.
2. This application was accompanied by an Environmental Impact Assessment Report (“EIAR”) (with an EIAR Addendum submitted at Significant Additional Information stage).
3. The purpose of that application was to obtain planning permission to build the services and all of the internal roads for the proposed development/project comprising the housing estate which it is proposed to be constructed on the Corballis lands owned by the application.
4. This application was accompanied by a so-called “Masterplan”, dated October 2018 which showed the proposed layout and building units for the proposed development/project. It is of note that the instant application is also accompanied by the same “Masterplan”. This current application is merely yet another application for permission to build a part of the proposed development/project.
5. As is well known, An Bord Pleanála refused permission for the initial application on the basis that it could not be satisfied, beyond reasonable scientific doubt, that the proposed development/project, either individually or in combination with other plans and projects, would not adversely affect the integrity of European sites in view of their conservations objectives.
6. The main ecological concerns of An Bord Pleanála concerned the proposed “nature park” which it was proposed would be constructed as part of the proposed development/project.
7. It will be noted that the instant application neatly removes the proposed nature park from the application at hand to seek to circumvent the findings of An Bord Pleanála.
8. It should also be noted that the applicant, in its submission to An Bord Pleanála in relation to the earlier application, made reference to an application for proposed housing units being made in quarter one of 2020 (i.e. the instant application).

9. This Community Council had very serious concerns about the manner in which the earlier application was crafted in order to minimise and evade full environmental scrutiny by failing to consider the actual proposed development/project (i.e. the construction of a housing estate) and by only considering the environmental impacts of the infrastructure to enable this proposed development/project to be constructed.
10. The applicant went to elaborate lengths to attempt to seek to somehow contend that the proposed development/project was in fact just the infrastructure and that such could be considered as a standalone project in a vacuum, completely separate from the housing which was the sole purpose for which the infrastructure was being proposed to be constructed. This was a clear attempt to seek to engage in project splitting in an attempt to evade proper environmental scrutiny.
11. For the applicant to then return some 6 months after failing to obtain planning permission for an application which indulged in project splitting, and to now seek planning permission for an even more blatant attempt at putative project splitting is startling.
12. To set out simply what is involved here: this is one site, owned by one developer, on which it is proposed to build one housing estate. The attempted subterfuge of dressing up one housing estate as a so-called "Masterplan" is so transparent that it would be amusing, were the environmental consequences not so appalling. This is one proposed development/project. This is not comparable to, for example, a large tract of land owned by multiple developers with various plans and uses for their particular individual pieces of land.
13. The consequence of the actions of the applicant is that it has moved from preparing a sub-standard and incomplete EIAR in respect of its first application for planning permission for these lands to **not** undertaking **any** environmental assessment **at all** in respect of these lands for the instant application.
14. While the applicant may have attempted to hide behind a smokescreen in respect of EIA in respect of the first application, the applicant has now come out completely into the open and is refusing to engage in any environmental assessment whatsoever.
15. This Community Council went into some detail in relation to the serious issues of project splitting which have enveloped this particular site in its appeal to An Bord Pleanála in respect of the first applications (available here: <http://documents.fingalcoco.ie/NorthgatePublicDocs/00634247.pdf>) and the contents of same should be read with and considered along with this document.
16. For this reason alone, this application must be refused on the basis of project splitting. It is simply untenable for a developer to seek to avoid having to undertake an EIA by engaging in,

to use the colourful European term, salami slicing which refers to the practice of seeking planning permission for multiple small developments rather than the whole development in order to avoid having to undertake EIA. Having failed singularly to obtain planning permission for the whole of the site, the applicant is now seeking to obtain planning in increments and by stealth to avoid its obligations under the EIA Directive. In this regard, we would refer to, in particular, to the judgments of the Court of Justice of the European Union in Case C-147/07, *Ecologistas en Acción-CODA*, Case C-205/08, *Alpe Adria*, C-244/12, *Salzburger Flughafen*, Case C-227/01, *Commission v Spain* and C-392/96 *Commission v Ireland*.

Appropriate Assessment Screening Report and Natura Impact Statement

17. The Appropriate Assessment Screening Report and Natura Impact Statement (the “Report”) submitted as part of this application is fundamentally flawed, incomplete and does not provide a basis upon which the competent authority can reach a conclusion that the development will not adversely affect the integrity of the SACs/SPAs at Rogerstown Estuary, Broadmeadow Estuary and Malahide Estuary adjacent to the development and thus the competent authority cannot agree to this development and must refuse permission for same.
18. The Report proceeds on a fundamentally flawed basis as it **only considers** the small portion of the lands in question which constitutes the subject matter of this application. No more than is the case in respect of the failure to prepare and EIAR, the applicant is again seeking to avoid its obligations, in this case those under the Habitats Directive, by failing to consider the actual site and only looking at a small sub-section of same.
19. As a result, the applicant has failed to find and to consider the wildlife which was carefully outlined and considered in our previous submission on the first application (see <http://documents.fingalcoco.ie/NorthgatePublicDocs/00634247.pdf>). The issues raised in that submission are equally valid in respect of this application as they concern the same site and they should be read in conjunction and considered with this document.

Infrastructural Deficit Rail

20. Presently, almost 50% of Donabate’s workers commute to Dublin city centre to work. This is ahead of the Fingal regional capital of Swords by some 10%, and is surpassed only by Malahide (55%) which is a town which enjoys far superior links to the city centre.

21. Donabate is the most southerly town on the Northern Commuter Rail service currently outside of the DART zone, and all of the morning peak trains passing through here commence their journeys from Drogheda, Dundalk and Newry. The overcrowding at peak time is chronic, and on some occasions, passengers have been unable to board due to the overcrowding. Reports of passengers fainting or being overcome by these conditions are common. The vast majority of city-bound travellers use this service as there is no suitable substantial alternative to it except for a very limited number of peak-time service to/from the city centre per day. The journey by rail between Donabate and Connolly stations typically takes 30 minutes to complete and is arduous at peak time due to the extreme levels of overcrowding.
22. Donabate Portrane Community Council (“DPCC”) met with Irish Rail in November 2018, and whilst it was well received, the reality is that there is no scope to provide any relief for at least three years, and in any event, the proposed growth in population in the interim will undoubtedly consume whatever additional capacity may be provided. This comes on top of 2017 being a record year in terms of Northern Suburban passenger numbers, and at the time of the 2018 meeting, 2018 was seeing an increase of 5% on the previous year’s figures.
23. Furthermore, DPCC has become aware of limitations in the electricity supply network which are likely to impact on the proposed extension of DART north of Malahide, and our informed sources tell us that the necessary remedial work may take ~ 5 years to deliver. In any event DART is an extension of existing capacity north of Malahide and, in our view, will not be a sufficient solution in the longer term. In any event, we could not see DART as a solution because extending it north of Malahide simply pushes available capacity north of there without providing anything additional.
24. Previous governments have supported the need for Rail Interconnector which was an underground tunnel linking Docklands to Heuston Station, and this would provide a substantial increase in capacity across the city that would have been adequate to meet foreseeable need. However, this proposal appears not to be supported as enthusiastically as previously, and the necessary funding to deliver it (estimated at ~ €2bn) has not been provided. So in effect, this proposal is suspended, and even if this project was implemented immediately, it is likely to take a decade to become operational
25. DPCC is very concerned that higher density planning is being concentrated within 1km of a railway stations generally, and this is happening with no apparent regard to the capacity available on the railways, nor the cumulative impact of similar development near stations which share the rail services before they arrive at Donabate station. There has always been

a shortage of capacity at peak times for many years and at present, trains cannot run in a configuration longer than 8 carriages; nor can additional services be provided at peak-time due to operational constraints that appear insurmountable. The upshot of this is we cannot run more peak time trains, nor can we lengthen these beyond what they currently are.

26. There is no doubt that building high density developments adjacent to the railways without any regard to its capacity and constraints, and in circumstances where there is no high capacity solution planned, is badly flawed and will undoubtedly cause enormous problems.
27. In response to the severity of the situation confronting our community, and also to demonstrate the impact of it, DPCC published an online petition calling for the Government to:
 - Take immediate steps to address the serious congestion and intolerable overcrowding at peak times on commuter services between Dublin and Drogheda;
 - Ring-fence the necessary funding to add to and improve existing services
 - Prioritise public transport throughout Fingal in line with it being the fastest growing part of Europe.
28. At the time of writing, the petition has attracted over 1,600 signatures with that number continuing to grow. The petition can be viewed at <https://www.change.org/p/national-transport-authority-upgrade-the-northern-rail-line>

Bus

29. There are three direct services from the Donabate peninsula to the city centre which leaves Portrane at between 07:00 and 07:40. The evening return journeys depart the city centre between 17:05 and 18:05. All are moderately to heavily loaded.
30. There is a local bus service (33B) which links the peninsula with the town of Swords only, and using this service in order to use a second bus onwards to the city centre is impractical as the combined journey times are excessive and inordinate. DPCC members have personal experience of using this particular solution and it takes typically 80-100 minutes to complete a journey to the city centre during the morning peak, whereas the same journey by train takes 30 mins, or 45 mins by direct bus.
31. Approaches to Dublin bus to provide new services have yielded no positive results.
32. The residents of this peninsula know all too well from continued and bitter experience that no one does come along to address the infrastructural deficits. Instead, more and more housing is being shoehorned into the area with no improvements to infrastructure. This is in

breach of the principles of proper planning and sustainable development and cannot be allowed to continue unhindered and unchecked.

Driving and Cycling

33. Members of DPCC have both driven and cycled occasionally from Donabate and Portrane to work in the city centre.
34. Driving typically takes one hour, but on days of poor weather or excessive traffic congestion, it can take 50% longer. Generally commute times by car are continually disimproving because population growth is continuing apace along the motorway corridors. Driving is arguably an expensive, slow, environmentally unfriendly and often stressful way to commute.
35. Cycling also takes one hour, but can be an unpleasant experience due to narrow roads around the peninsula combined with heavy traffic. There are no dedicated cycle lanes on the main Hearse Rd which contributes greatly to the difficulties. Given the distance and difficulties involved, coupled with the level of fitness needed to reach the city centre, cycling to there for work is an impractical solution for most.

Metro North

36. The Metro North project will see the construction of a new light rail system to link Lissenhall to the city centre via Dublin Airport and DCU. This significant infrastructural project is key to the future development of Swords which will see its population reach 100,000 in the next three decades.
37. DPCC has argued that a rail spur from Lissenhall to serve Donabate should be created to provide this new mode to serve the peninsula. However this proposal drew no support and is unlikely to proceed. Any benefits from this new transport mode to the community here will be limited to commuting to Lissenhall first to commence the Metro journey from there. There is still some uncertainty around some specifics of this project, but at the time of writing, it is indicated that construction will commence in 2021 with an expected start date of 2027.

Electricity Supply

38. The Electricity supply to Donabate and Portrane suffers frequent outages in the last number of years for no apparent reason and in our informed view, is down to the electricity network being stretched by demand. This is an important consideration going forward because all new homes use electricity as the primary means of heating and therefore each new home can potentially place a higher demand for electricity on the network than one heated by oil or gas.
39. As covered previously under Rail, we are aware of electricity supply limitations that will impact on DART electrification north of Malahide.

Mobile Telephone and Broadband

40. Mobile Telephony around Donabate and Portrane is very patchy in places. As the siting of masts is a very contentious issue, we do not foresee any improvements with reception, meaning a disimprovement is likely with further development.
41. Our analysis also suggests that main service providers offering Broadband services here do so with bandwidths that are below the maximum available in other parts of the city. This deficit is down to the networks serving here not being as modern or capacious as those in faster areas, and further development here is likely to drag heavily on that.

Sustainability Post COVID19

42. At the time of writing, the long term effects of COVID19 on economy, society, lifestyle and commuting are very hard to predict. But some clear preferences are emerging. High density commuting using modes like rail and bus are becoming less preferable, with more socially distant alternatives like walking, cycling and driving being preferred. However none of these are sustainable for those working in the city centre, and the reasons for this are set out previously. With this uncertainty in mind, it calls into fresh question the wisdom of constructing in higher densities in locations using the justification of an existing rail line if those who will live in such developments choose not to use this mode, and more worryingly, take to driving.

SUDs, Drainage Networks, Water status, and Flooding:

43. The applicant cannot prove beyond reasonable doubt that application in question here will not impact on the local drainage system and water quality. The truth about this application is that it is part of a much larger development, and the current application will provide one

of four access roads to a development site of approximately 1200 units. The Donabate Local Area Plan accounts for over four thousand additional units and this application is a prime example of project splitting that together with future applications in the Corballis Master Plan will account for almost a third of all units in the local area plan.

The intention of the applicant is to camouflage the potential impact the larger scaled development has on our drainage network and water quality, and the impact it has on the Malahide Estuary to the south, and the Rogerstown Estuary to the north. Both areas are SPA, SAC and pNHA. Surface water runoff increases due to roofs, roads, footpaths, etc. SUDS will help in managing surface water run off but it alone will not protect surrounding lands from flooding. Successful SUDS applications relies heavily on a regular and strict maintenance regime. Who is ultimately responsible for SUDs maintenance post development? No referral to ownership or maintenance appears in any documentation. A collective, agreed and managed approach to SUDs maintenance is imperative to reduce the potential impact of a failed SUDs application. A mesh approach to our drainage network would substantially reduce the impact of flooding due to failed SUDs applications. Money needs to be ring-fenced for annual SUDs maintenance.

If we continue to permit developers and planning authorities to project split large scale developments, and not look at the bigger picture (as is in this case) - that is the collective impact all developments have on the peninsula with regard to our drainage networks and water quality, we cannot prove beyond reasonable doubt that the overall impact of the developments will not negatively impact on the:

- 1) Hydrological pathways to Natura 2000 sites
- 2) Water status - risk of impact on water body status or habitat requirements to any Natura 200 sites. Quoting from DLAP, section 7.2.2 – Surface Water Management – *“SUDS techniques will be incorporated into the development of the LAP lands. Integration of SUDS techniques within these new developments will be required to ensure that the capacity of the existing network is not exceeded and the quality of the surface water runoff is not negatively impacted by the development.”*
- 3) Flood risks

The above is not realistically achievable based on the assessment of individual developments.

Extract from DLAP Section 7.2.2 –Surface Water Management

“Water quality is a significant issue for a host of reasons, including human health, wildlife conservation, amenity and recreational use and is therefore a central focus in striving for sustainable development. New development has the potential to add to flood risk in an area if it leads to an increase in surface water run-off.

Based on the existing surface water drainage network and topographic levels obtained from contour mapping, it is likely that the majority of the LAP lands will outfall to downstream ends of the existing surface water drainage network. Where the new surface water drainage network for the LAP lands is connecting to the existing surface water network in Donabate, the capacity of the existing network will need to be established at these locations and discharge from the developments limited to acceptable flow rates.

The quality of any runoff from any new development will need to be such that the environmentally sensitive areas of Malahide and Rogerstown Estuary are not negatively affected.”

As acknowledged by our planning authorities:

- 1) *New development has the potential to add to flood risk in an area if it leads to an increase in surface water run-off.*
- 2) *Where the new surface water drainage network for the LAP lands is connecting to the existing surface water network in Donabate, the capacity of the existing network will need to be established at these locations and discharge from the developments limited to acceptable flow rates.*

Summary

Before any further development is permitted on the peninsula or adjacent to the surrounding catchment areas, a master management plan is required for:

- 1) Dealing with increased surface water run-off from future developments identified within local area plans. Developments outside of the Local plan should only be permitted if the existing drainage network has capacity and there is not threat to water quality.
- 2) Determine our existing drainage network capacity & constantly review with respect to climate change and future developments
- 3) Stop processing planning applications on an individual bases with no regard to the greater drainage network capacity

Green roofs and water buffs are proposed in the development where large flat roofs are proposed to slow down storm-water from entering our drainage system. We have seen in many previous applications, green roofs stay a proposal and are never implemented.

As mentioned, the current application is part of a much larger plan - the Corbalis Master Plan which accounts for over twelve hundred units. Project splitting has to stop as it is irresponsible and flies in the face of proper planning.

DLAP does not account for development outside of the DLAP. Furthermore, it does not account for the future development of Portrane, Turvey Avenue Business Park or potential future rezoned land banks in the area. The peninsula requires an **area wide master plan for our drainage network** to enforce regulation and proper planning for the development of current and future developments. Storm water management and accounting for pluvial flooding are critical requirements in the overall development plans for the area.

Construction & Environmental Management Plan - key safety issues.

44. Summary of main points in plan with regard to safety of residents in Donabate:

- 1) Construction site access is from Main Street – internal turning area with no reversing on to the street
- 2) Site Hoarding – single controlled access point
- 3) Traffic routing via Main St, Hearse Rd, and M1
- 4) Limited site parking for workers – 1 or 2 spaces
- 5) 24 months construction period
- 6) Construction workers trips limited by car sharing and travel to work scheme
- 7) Estimated 45 vehicular movements per day
- 8) Operation Times - 0700 to 1900 hours, Mon to Fri. 0800 – 1400 hours Sat. Site deliveries within normal working hours. **NO PEAK RESTRICTIONS**
- 9) Road Cleaning – yes

The traffic through the village, and the Hearse Rd is exceptionally busy during peak times. At the very least, site access should be restricted during peak commuting and school hours. This intersection is exceptionally complicated, blind and dangerous for pedestrians, cyclists and drivers. DPCC recommend that the site access is via the DDR or New Rd (this development is only a small part of the Corballis master Plan).

DPCC believe that the majority of workers will commute by car. To date there is very little supporting evidence of carpooling on existing sites, and public transport is not utilised by the majority of the existing construction work force on the peninsula. Parking facility for workers should be provided onsite or within walking distance of site.

Details should be provided in advance to the community of the measures to be undertaken to keep the road free of muck and debris. At the very least a wheel washing facility and regular road sweeping should be provided.

A reasonable restriction to the maximum vehicular movements per day should be enforced to reduce the risk to residents using the area.

Private Amenity Space:

45. It is rather disappointing to see the provision of poorly considered Private Amenity Space throughout the proposed scheme, the *Fingal County Development Plan 2017- 2023* and *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities March 2018* clearly states the need for a high quality private amenity space within apartment and residential developments contrary to what is proposed by the applicant.

Block 2, Unit1, is a two bed apartment with ground floor access and living and accommodation areas on first floor. The Private Amenity Space seems to be provided at ground floor in the form of a patio area. It would imply that a resident will have to gain access down the stair and through two doors via the garage, with the bin area (unscreened) indicated on the same patio. The patio is also located on the North West side of the building. Surely this cannot be the best solution and seems to be contrary to the ***Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities*** under subsection **3.35** *It is a policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. Where provided at ground level, private amenity space shall incorporate boundary treatment appropriate to ensure privacy and security. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.*

Block 4 seem to have terraced areas that does not meet the requirements as set out in the ***Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities*** under subsection **3.37** - *A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines. While deeper balconies might be desirable in certain cases, this has to be balanced against the need to avoid overshadowing.*

Neither in width and orientation (on Northern side of the block), resulting in a considerable overshadowing

Block 1, the Private Amenity Space is indicated adjacent to the front door (first floor terrace cannot be considered, as access to the terrace is via a bedroom), surely this cannot be considered private as it is also bounded by a public access route to the adjacent units. Furthermore the bin area is indicated within the same space although it is screened, but definitely not a well-considered solution.

Block 3, ground floor one bedroom apartment does not seem to have direct access to the Private Amenity Space / private open space, although if the patio by the front door is presented as Private Amenity Space, there also does not seem to be direct access, one would have to exist via the internal corridor to avail of it.

Separation Distances

46. There seems to be a question in relation to the true boundary distances of units 06 to 19. It should be noted that the true rear garden depths within units **06 to 13** are questionable, when taken in the two story rear extension of units 06 to 13, this will ultimately result in an overall rear garden depth well below the suggested 11m by the *Fingal County Development Plan 2017- 2023* (in the absence of alternative open private space as these are terraced units).

Units **15, 16** and **19** have separation distances to the boundary indicated below the suggested 11m.

The Fingal County Development Plan 2017- 2023 clearly states: A minimum standard of 22 metres separation between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres. However, where sufficient alternative private open space (e.g. to the side) is available, this may be reduced - subject to the maintenance of privacy and protection of adjoining residential amenities.

Height and scale of the Proposed Development and impact on Local Area

47. It is rather disappointing to see the overbearing and intrusive nature of the visual aspect of the development as viewed from the main road as indicated in the applicant's drawing 0921-PA2 010, Site Section C:C, facing the site with the station behind you. The specific prominence of Block 1 with a "sea of car parking" in front of it and the attempt at creating a public space in

the form of a sculptural element surrounded by car parking is rather disappointing. We have serious reservations in terms of the height and overbearing nature of Block 1 on the street frontage of the development and find it wholly inappropriate.

With regard to the Southern elevation of the development as portrayed in drawing 0921-PA2 011, Site Section E:E, we find the overbearing nature of Block B4 onto the surrounding landscape is unacceptable. Taken account of the fact that this view of the proposed development would be the rear elevation of the development facing onto the Malahide estuary and would be visible from there.

Viability of the ground floor commercial units within the Proposed Development

48. We would like to point out that the development of commercial units within the development does not seem to make any sense in the light of financial viability, taken in account that the Daybreak shop (directly opposite the entrance to the proposed development), have been closed for the past 8 years and have subsequently changed hand in the last two years and have not been open for business. We do respect the fact that as a priority the *Fingal County Development Plan 2017- 2023* actively encourage mix use development within the town centre area, but the location of the proposed commercial units are away from the core business area of Donabate and as proven by the current status of the Daybreak shop in the vicinity would most likely not be occupied and would seriously damage the amenity in the area.

Summary

We can therefore not support this application, the poorly designed private amenity space and rear garden depths would adversely impact on the amenities of the area and would set an undesirable precedent for similar development in the area. The development would be in conflict with the *Fingal County Development Plan 2017- 2023* and *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities March 2018* and would therefore be contrary to the proper planning and sustainable development of the area. If granted, the proposal would set an undesirable precedent.

For all of the above reasons, Fingal County Council has no option but to reject the application for planning permission.

Yours sincerely

Gareth Lee

Secretary

Donabate Portrane Community Council