

AN BORD PLEANÁLA
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Time: 14:15 By: Hand

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

Thursday, 5th September 2018 [By hand]

Dear Sir/Madam,

OBSERVATION ON AN BORD PLEANALA REG. REF. PL06F.304624: APPLICATION FOR THE DEVELOPMENT OF A CYCLEWAY AT BROADMEADOW WAY.

1.0 INTRODUCTION

Sheehan Planning¹ is making this Observation on behalf of Olive Moran², a niece of Jack Sheehan (Jack Sheehan owns lands that will be affected by the proposed cycleway).

We have reviewed the details available online and have a number of queries and observations about the application, which we believe should be addressed by the Board in considering the proposal, as set out in Section 2.0 below.

2.0 QUERIES AND OBSERVATIONS

Our Queries relate to the nature of the manner of the route selection process, including the timing of the public consultation process, which did not take into consideration the effect of the long-planned Donabate Distributor Road, which is under construction at present.

Our Observations relate to the manner in which the impact of the development on Jack Sheehan's farm has been assessed and the effect of the preferred route on Jack Sheehan's lands (the approximate boundaries of which are shown on Figure 1).

(The 'preferred route', which would sever the farm, is shown on Figure 2.)

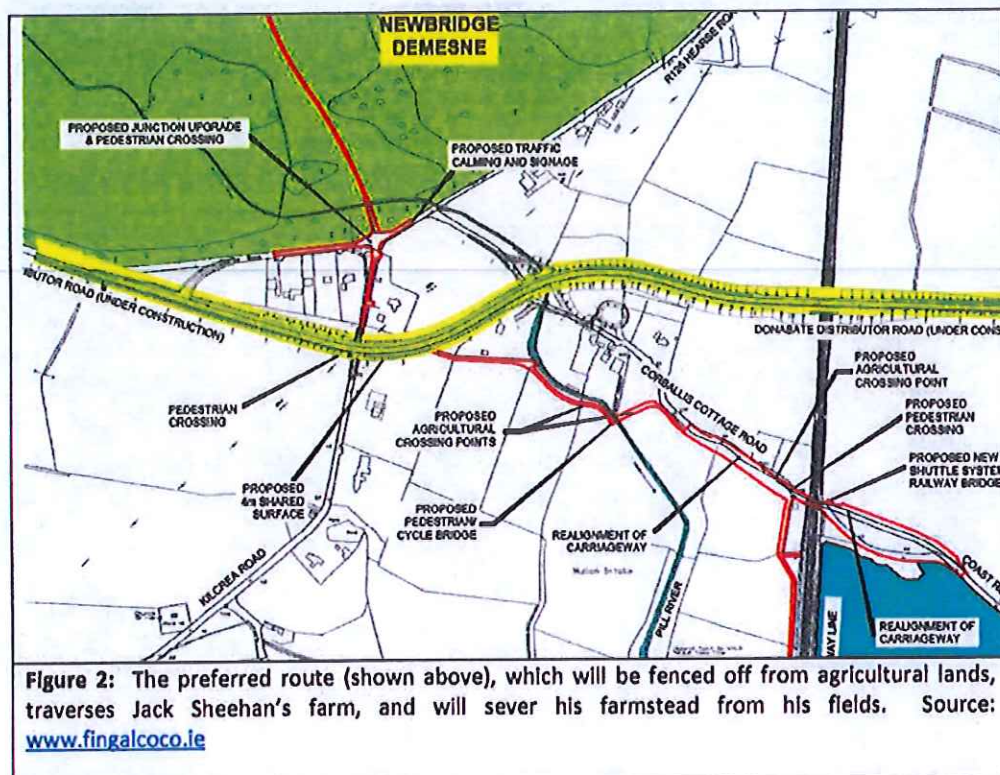
An Oral Hearing is requested.



2.1 Route Selection Process

Jack Sheehan's Farm is located in 'Section 5 – North Shore of Malahide Estuary to R126 Hearse Road' of the overall scheme. The documentation submitted as part of the application for the cycle-route shows that 6 Options were presented at the pre-consultation phase, which was reduced to 5 Options post consultation (see Figures 5A and 5B in Volume 4B, Appendix 2 of the EIAR).

These route Options are listed as Options 1, 2, 3, 5, etc. on the drawings but rather confusingly the colour of the Options is inconsistent as between Figure 5A (pre-consultation) and Figure 5B. For example, Option 1 in Figure 5A is outlined in purple but Option 1 in Figure 5B is outlined in light blue.



Volume 4B EIAR Appendix 2, May 2019 of the EIAR expressly states at section 1.4.5 that:

"this is the only "new build" section of the route across agricultural land. The options commence on the northern shore. The options terminate at the gate of Newbridge Demesne. This report considers the greenway in the absence of the proposed Donabate Distributor Road; however, the EIAR assessment will include the integration of the bypass with the greenway at this location."

We also note that neither Figure 5A nor 5B headed 'Broadmeadow Way Route Options Report' therein show the actual location or the indicative location Donabate Distributor Road, which is under construction at present.

This indicative route is set out on Sheet 7 of the current *Fingal County Development Plan 2017-2021* and was previously set out on Sheet 7 of the previous *Fingal County Development Plan 2011-2016* zoning maps, and in the *Donabate Local Area Plan 2016* (extract from the *Donabate Local Area Plan, 2016* at Figure 3).

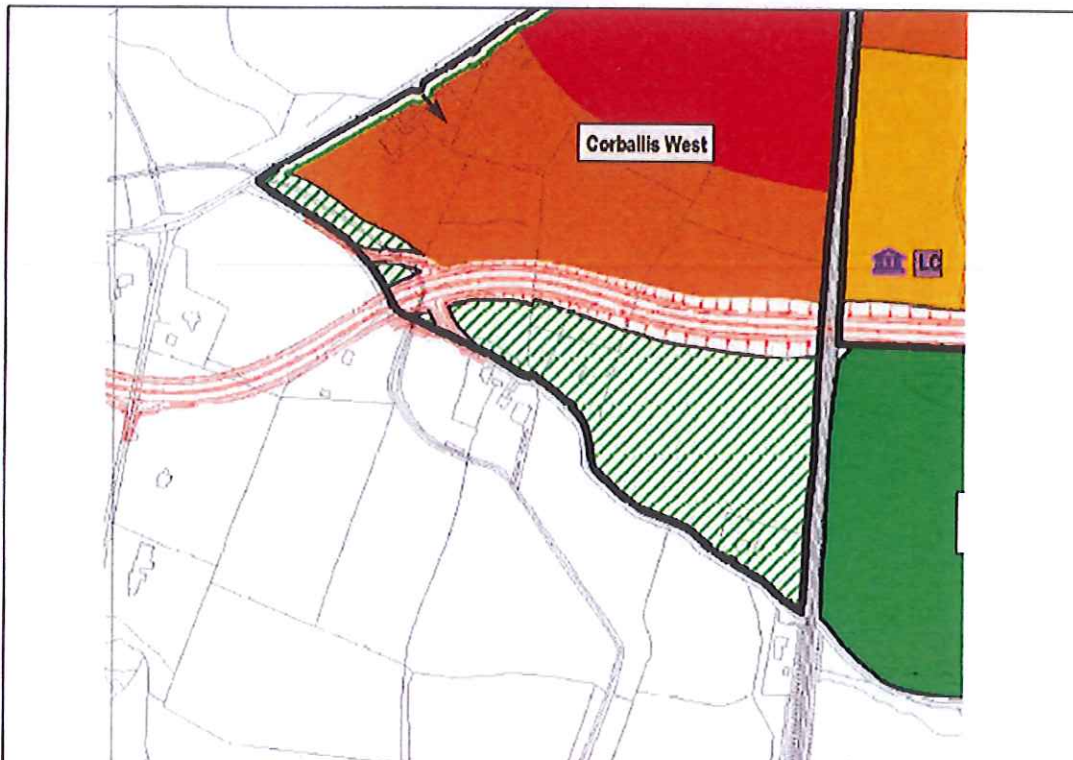


Figure 3: Extract from the 'Phasing of Development' map from the Donabate Local Area Plan 2016-2022, adopted by Council on 14th March 2016. We note that the route of the Donabate Distributor Road is clearly outlined on the Map. The EIAR states that it "considers the greenway in the absence of the proposed Donabate Distributor Road" which is under construction at present. The lands to build the Donabate Distributor Road were subject to CPO a number of years ago. Source: www.fingalcoco.ie

Whereas the EIAR report states that it assesses the integration of the bypass with the greenway and the Donabate Distributor Road, it is unclear if the original or preferred location of the cycleway took the proposed Donabate Distributor Road, which we are advised incorporates a cycle-lane on both sides, into consideration when plotting the initial Route Options.

This is of concern as it seems to be putting the cart before the horse and is quite fundamental insofar as the proper planning and sustainable development of the area is concerned. It may result in a needless and inefficient duplication of cycle-lanes/paths that will unnecessarily sever a farmstead from its attendant fields, thereby threatening the viability of this long-standing farm (owned by the same family for over 70 years).

We also note that the initial public consultation referred to in the EIAR was undertaken in 2014³, some c. 5 years before the submission of this application, when a different Development Plan and a different Local Area Plan for Donabate were in effect. It appears from the application documentation (subject to correction) that route options were presented in the absence of consideration of the planned Donabate Distributor Road.

³ See section 8.1.1 of Volume 4B: EIAR Appendix 2 – Route Options Report.

The on-the-ground development context has also changed in the last 5 years insofar as the Donabate Distributor Road is now under construction. The outcome of the Public Consultation is stated at 8.4.1 was to "Review/assess the severance of the agricultural land along the Pill river and review alternative routes which would negate the requirements for this severance of lands."

In the circumstances, we request that the Board consider altering the proposed route or refuse permission for part of the preferred route. This could likely be done without materially affecting the viability of the greenway. For example, the alternative route shown on Figure 4 below would avoid severing Jack Sheehan's farm, would link into the Donabate Distributor Road via Corballis Cottage Road, upon which some of the route is already proposed to run along and which is described at paragraph 4.3.28 of Volume 4B EIA Appendix 2 as:

"a 5m-width carriageway with no dedicated walking or cycling facilities... Traffic volumes are low along this road as it is serving mostly agricultural lands, private residences, and recreational facilities, including three golf courses..."

Cyclists could travel down the Donabate Distributor Road (which incorporates a cycle lane) from the intersection with Corballis Cottage Road to the intersection with Kilcrea Road before crossing over the road and heading north towards Newbridge Demesne. It may be possible to segregate cyclists from Corballis Cottage Road by continuing the proposed parallel cycle route along Corballis Cottage Road without resulting in the level of severance of Jack Sheehan's farm as proposed at present.

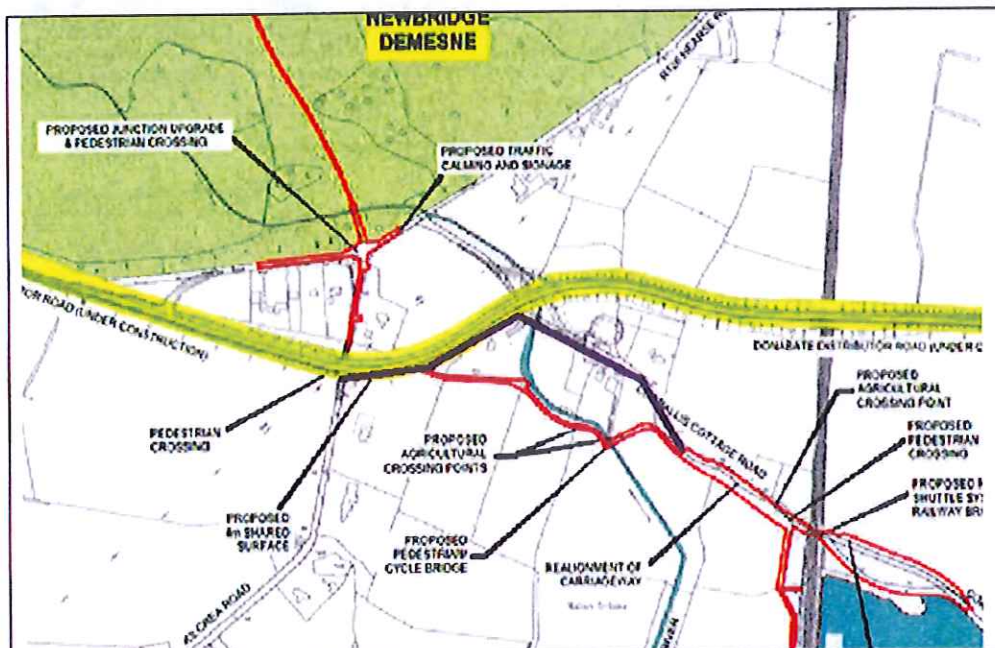


Figure 4: Image showing the 'preferred' route option (red) and the alternative route (purple), which has been examined in the EIA, but would avoid severing Jack Sheehan's farm and would obviate the need to constructing a new road/cycleway through agricultural High Amenity zoned lands.

In the event that the Board is minded to grant permission it may be open to the Board to sever that part of the route that traverse Jack Sheehan's agricultural holding from the permission while still enabling cyclists to continue to Newbridge Demesne via Corballis Cottage Road and the Donabate Distributor Road. Source: www.fingalcoco.ie annotated by Sheehan Planning.

Alternatively, the route could run along the railway line to Donabate rail station instead of heading in a westerly direction over Jack Sheehan's farm which may have less of an environmental impact than the current proposal, and cyclist could then travel from Donabate to Newbridge House via Newbridge Avenue.

2.2 Assessment of Impact of Preferred Route on Jack Sheehan's Lands

We submit that the assessment of the impact of the selected option on Jack Sheehan's lands is flawed.

Flawed Assessment of Route Options

Notwithstanding our preliminary remarks on the absence of consideration of the Donabate Distributor Road in producing the Initial Route Options for public consultation, we also consider that the engineering assessment of the impact of the Route Options as presented in the Chapter 10 of Volume 4B of the EIAR, Appendix 2 is flawed.

As previously outlined 5 options were presented for assessment. Of those 5 options only one of those routes (Option 2) avoided substantial severance of Jack Sheehan's farm.

Route Selection (Engineering) Summary

Table 10.4 Donabate Branches - Option Evaluation Summary Evaluation Matrix.

	Option 1 Light Blue	Option 2 Green	Option 3 Yellow	Option 4 Purple	Option 5 Dark Blue
Technical	Most Preferred	Preferred	Preferred	Preferred	Preferred
Safety	Most Preferred	Most Preferred	Most Preferred	Most Preferred	Most Preferred
Integration	Preferred	Preferred	Preferred	Preferred	Most Preferred
Construction Impact	Acceptable	Acceptable	Preferred	Preferred	Most Preferred

Source: www.fingalcoco.ie

The difference in the construction impact assessment as between Option 2 (which largely avoids severing Jack Sheehan's farm) and Option 5 (which will sever the farm from the farmstead) is two notches (the 'notches' being: least acceptable, acceptable, preferred, most preferred). However, subject to clarification, the distinction of the construction impact does not seem that marked and perhaps there ought to be one notch difference only? For example, the construction impact of Route 2 is described as:

"minor environmental impact with the use of low impact construction methods. No impact on flood storage capacity of flood plains in the area. Re-uses a section of the existing stone access"

whereas Option 5 has:

"least environmental impact with the use of low impact construction."

Similar questions arise in relation to the assessment under 'safety'. For example, no safety penalty has been applied to route 5 even though it will traverse a working farm, includes gates

from Jack's Farmstead to the fields to the south over the cycleway. Livestock will need to be controlled while traversing the cycleway and may foul on the cycleway posing a health risk which would not arise in respect of Option 2, as while Option 2 traverses agricultural land it does not sever Jack Sheehan's farm. This is not a frivolous matter; several newspaper articles document illness arising from the interaction of cyclists with sheep droppings⁴, and we note (from table 4.14 of Volume 2 of the EIAR Report) that the estimated average uses on the cycleway will be 1,200 trips/day.

In this context, it is respectfully considered that the process leading to the selection of Route 5 as the preferred route may be flawed and the selection of 'Option 5' as the preferred route should be reconsidered.

Assessment of Impact of Severance of Farmstead

The impact of the development on Jack Sheehan's lands is assessed under Material Assets (Chapter 11 of the main EIAR Report (Volume 2)). Jack Sheehan's Farm is identified as 'Farm 6', a 18.5 HA beef enterprise farm. Table 11.5 indicates that 9% of the farm will be severed (1.7 ha) and states that the impact of the development (after mitigation) will be moderate adverse.

Our client does not agree with that the effect will be moderately adverse and believes that it will have a significant adverse impact and instead of resulting in a 9% severance of the land believes in reality it will essentially result in a c. 90% + severance of the farmland from the farmstead as all of the farming equipment and outbuildings⁵ are located on the farmstead which are required for the operation of the farm as a whole.

Severance of the land would also preclude/militate against the use of the land as a dairy farm in the future by requiring more supervision of livestock going to and from the site while passing through the cycleway and would affect the economic viability and value of the farm.

⁴ <http://www.telegraph.co.uk/news/newstoppers/howaboutthat/3541919/More-than-160-mountain-bikers-made-sick-by-sheep-droppings.html>

⁵ There are a number of outbuildings in the farmstead including a barn to store hay and other buildings for pigs, hens, storage and for equipment. We are advised that there are 70+ cattle, 4 horses and chickens on the farm.

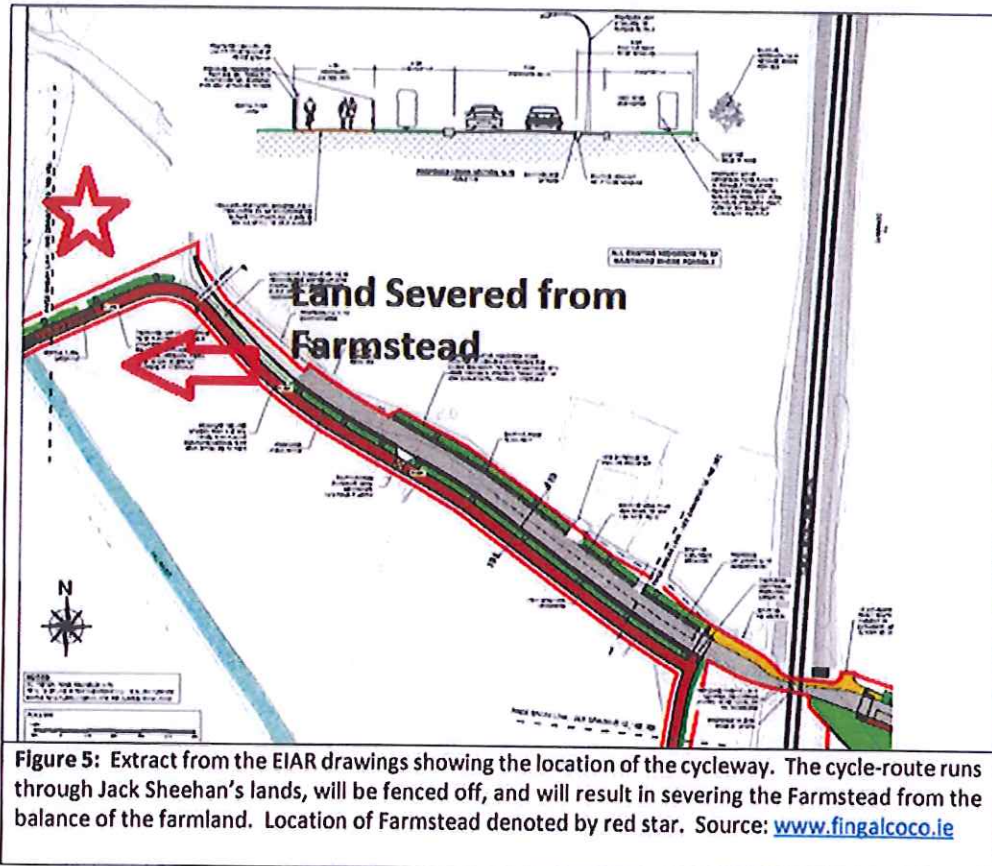


Figure 5: Extract from the EIA drawings showing the location of the cycleway. The cycle-route runs through Jack Sheehan's lands, will be fenced off, and will result in severing the Farmstead from the balance of the farmland. Location of Farmstead denoted by red star. Source: www.fingalcoco.ie

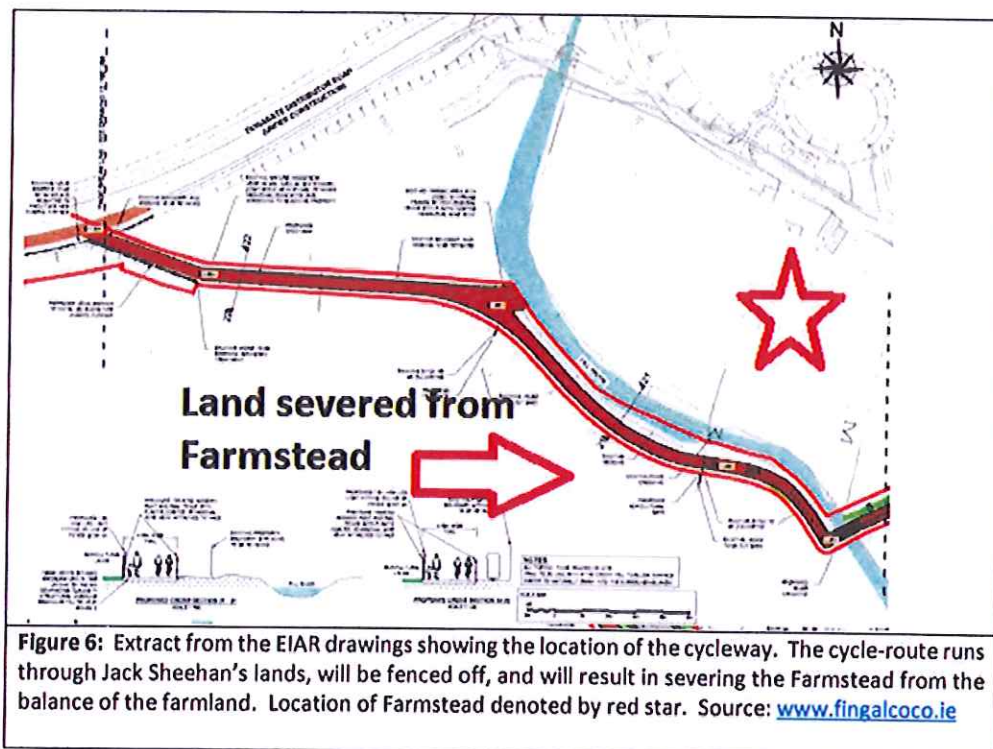


Figure 6: Extract from the EIA drawings showing the location of the cycleway. The cycle-route runs through Jack Sheehan's lands, will be fenced off, and will result in severing the Farmstead from the balance of the farmland. Location of Farmstead denoted by red star. Source: www.fingalcoco.ie

Our client also disagrees with the characterisation of disturbance as being not significant; inadequacy-controlled dogs may disturb livestock, particularly as livestock will need to be controlled before crossing the gates at the cycleway and it is unclear how trespassing or the use of motorbikes/noisy scooters will be controlled along the path.

This will also invariably diminish the value of the farmland and the farmstead.

Impact on Rural Exemptions

It is unclear whether the creation of a 4-metre-wide public way across the farm has any implications for the classes of rural development normally exempted under Schedule 2, Part Three of the *Planning and Development Regulations 2001* (as amended)?

For example, Class 6 exempts certain agricultural structures in Column 1 of the Schedule, subject to certain restrictions as set in Column 2. Inter alia, these restrictions on Class 6 exempted development include:

- No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.
- No such structure within 100 metres of any public road shall exceed 8 metres in height.

Proximity to a 'public road' has quite serious implications for exempted rural development. This appears not to have been considered in the assessment and we would welcome some consideration of whether a 4m wide public way might trigger the same restrictions as a 4m wide public road. If the Board is confident that this would not arise then we would welcome a formal assurance in that regard.

2.3 High Amenity Land Use Zoning

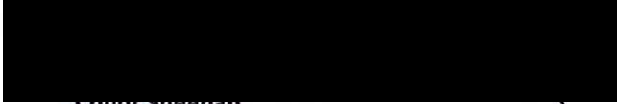
Jack Sheehan's farm is zoned HA 'High Amenity' in the current *Fingal County Development Plan* (see Sheet 7 of the current Development Plan zoning map). The objective of HA zoned lands is to "protect and enhance high amenity areas". The stated vision for HA lands in the County Development Plan is to "protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored."

It is considered that the development of a cycleway would increase public access to HA zoned lands. However, in our opinion, the effect of the proposed cycleway on Jack Sheehan's farm is inconsistent with the zoning objective in this particular case as it will result in severance of the farm from the farmstead; will undermine the viability of the farm and farmstead, which is key to the ongoing protection of the high amenity value of the area, and may well be unnecessary to facilitate the operation of the overall cycleway when cyclists may well be able to use Corballis Cottage Road and the Donabate Distributor Road to link in with the balance of the cycleway heading north toward Newbridge Demesne.

In this context, it is considered that the part of the development traversing Jack Sheehan's lands is inconsistent with the proper planning and sustainable development of the area.

We would be happy to elaborate or provide any additional information if desired by the Board.

Yours faithfully



Conor Sheehan
Sheehan Planning

Encl. (€50.00 statutory Observation Fee.)