



An  
Bord  
Pleanála

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

## Inspector's Report ABP-305713-19

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### Strategic Housing Development

359 no. residential units (223 no. houses and 136 no. apartments), crèche and associated site works.

### Location

In the townland of Regles, Minister's Road, Lusk, Co. Dublin.  
([www.luskreglesshd.ie](http://www.luskreglesshd.ie)).

### Planning Authority

Fingal County Council.

### Applicant

Dwyer Nolan Developments Ltd.

### Prescribed Bodies

1. Irish Water.
2. Department of Culture, Heritage and the Gaeltacht.
3. Heritage Council.
4. An Taisce.

**Observer(s)** 13 submissions received – see Appendix 1.

**Date of Site Inspection** 16<sup>th</sup> & 24<sup>th</sup> January 2020.

**Inspector** Daire McDevitt

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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 following is an extract from the Inspector's Report on ABP-301001-18 relating to a planning appeal on the subject site, and subsequently used in the Inspector's Report on Recommended Opinion on ABP-303300-18 (I concur with this 'Site Location and Description' and consider it still applicable to the site, subject to minor alterations):

"Lusk is located in the administrative area of Fingal County Council and is approximately 8 kilometres to the north east of Swords. The site is located on the western edge of Lusk and to the north of Ministers Road, a local road that connects Lusk to the R132 (former N1).

The site is bounded by Minister's Road to the south, by agricultural lands to the north, to the east by the Round Towers GAA Club and to the west by agricultural lands that include a dwelling and a golf driving range. The site, with a stated area of 8.44 hectares, is irregular in shape. It comprises five fields or field sections and is traversed centrally by field boundaries, drainage ditches and mature hedge planting. The northern and southern boundaries are defined by field boundaries with hedge planting. The eastern boundary is undefined. The upper section of the western boundary includes a field boundary that is marked by hedge planting at its northern section, while the lower section is undefined. The site comprises a mixture of grassland, tilled land, bare ground, dry meadows, grass verges and scrub and ground levels fall from north to south. There is an underground gas main and an associated wayleave running north – south through the eastern section of the site.

The site is on the western outskirts of Lusk Village and is within the 50 k/h speed zone. The Dun Emer housing estate is located to the south of Minister’s Road and addresses the site. Lands to the immediate east are zoned Open Space reflecting the established sports facility at this location, while the lands to the west, including a portion of the application site, are zoned for General Employment uses.

Bus stops on the Dublin Road are over 1 kilometre from the site and the Lusk / Rush Train Station is located between the settlements of Lusk and Rush at a distance of over 2.5 kilometres from the site.”

### 3.0 Proposed Strategic Housing Development

3.1 The proposed development will consist of the construction of 359 residential units and a crèche. Access to the development will be via two new vehicular access points from Minister’s Road. The proposed development includes all associated site development works, piped and wired services, public open spaces, hard and soft landscaping, surface car parking, bicycle parking, bin storage, public lighting on a site with an overall area of c. 8.44hectares.

3.2 The following table sets out some of the key elements of the proposed scheme:

Table 1: Key Figures.

Site Area	8.44 hectares (8.2679 zoned RA)
No. of Residential Units	359
Crèche	484.6m <sup>2</sup> (c.95 places)
Density (Nett)	42.5 per hectare
Height	2-4 storeys
Part V	35.9 (10% of the units)
Public Open Space	c. 9600m <sup>2</sup> (11% of the overall site area).

Unit breakdown:

- 223 houses (detached, semi-detached and terraced).

- 52 Duplex with associated ground floor apartments (7no. 2 and 3 storey blocks)
- 84 apartments (4 blocks).

Table 2: Unit Mix

Type	1 bed	2 bed	3 bed	4 bed	total
Apartment (blocks)	20	64	0	0	84
Duplex & Apt	14	26	12	0	52
Townhouse	0	0	11	41	52
Terrace	0	42	129	0	171
<b>TOTAL</b>	<b>34</b>	<b>132</b>	<b>152</b>	<b>41</b>	<b>359</b>
As % of total	9.5%	37%	42%	11.5%	100%

Table 3: Parking Provision

Car parking	Houses: 446 (2 in curtilage spaces per house) Apartments: 208 (1.5 spaces per apartment) Visitor: Crèche: 6 spaces (4 for staff) & set down area (suitable for 2 cars). Total: 660
Bicycle Parking	170

3.4 A phasing plan has been submitted, which outlines the following:

Phase	Works
1	Will commence at the southern end of the site delivering: <ul style="list-style-type: none"> <li>(i) The two vehicular accesses from Minister's Road.</li> <li>(ii) Two areas of public open space.</li> </ul>

	(iii) Crèche. (iv) c.166 no. dwellings, up to Road 4 and west of Road 2. (46% of scheme).
2	Will consist of the development of residential accommodation east of Road 2, north of Road 4, up to Road 11 and 13. It will deliver c. 102 no. dwellings and 2 large areas of public open space. (28% of scheme).
3	Will be the final phase and will deliver 91 no. dwellings and the remaining 2 areas of open space, all located north of Roads 11 and 13.(25% of scheme).

3.5 In terms of site services, a new water connection to the public mains is proposed located along Minister's Road. In terms of surface water disposal, it is proposed to connect to the existing surface water drainage system on Ministers Road. An Irish Water Pre-Connection Enquiry in relation to water and waste water connection has been submitted, as required, it states that subject to a valid connection agreement being put in place, the proposed connection to the Irish Water network can be facilitated.

There is an existing natural gas main that traverses parts of the eastern section of the site, this has been accommodated in the proposed layout and clearly identified in yellow on the layout plan submitted with the application.

A **Material Contravention Statement** is submitted in relation to the quantum of proposed public open space.

An **Appropriate Assessment Screening and Biodiversity report** was submitted with the application which concludes that from the field assessment of species and habitats found on site, no flora, terrestrial animals, avian fauna or habitats of conservation importance were found on site. No records of rare or threatened species or protected species were found in the vicinity of the site. The closest designated site is Rogertown Estuary. There are no direct links. An **Environmental Report** was submitted with the application. The applicants state that the proposal is below the threshold for a mandatory EIAR. The report

concludes that the proposal would not have any significant impacts on the environment.

An **Archaeological Impact Assessment** was submitted with the application. The most significant features identified were a prehistoric house, a fulacht fiadh (and features that are likely to relate to it) and a double ditched ring barrow. The proposed mitigation measures include full excavation in areas marked A, B and C (orange) on the submitted archaeology map (zones of high potential) in addition to archaeological monitoring of all works.

A **Site Specific Flood Risk Assessment** was submitted with the application. This noted that the site is located in Flood Zone C, residential development is appropriate for the site's flood zone category and a justification test as outlined in the Guidelines is not required. The SSFRA concluded that, while the development constitutes 'highly vulnerable' development, it is appropriate for this flood zone and the scheme will be designed to ensure that the risk of flooding of the development is reduced as far as is reasonably practicable. And that the development does not increase the risk of flooding to adjacent area and roads once the recommended mitigation measures are implemented.

**Documentation submitted also included inter alia:**

- School Needs Assessment for Lusk.
- Housing Quality Assessment.
- Building Life Cycle Report.
- Universal Design Statement.
- Prescribed Bodies Notifications.
- Engineering Services report.
- DMURS and NCM Design statement.
- Review of Existing Irish water infrastructure at Chapel Farm.
- Traffic and Transportation Assessment
- Preliminary Construction Management Plan.
- Part V proposal and Costs.
- Landscape Masterplan and rationale.

- Arboricultural Assessment.
- Outdoor lighting report
- Construction and Demolition Waste Management Plan.

## 4.0 Planning History

**PA Reference F17A/0327 (ABP Reference No. 301001-18)** refers to a 2018 decision where the Board refused permission for a proposed residential development comprising of 228 dwelling units, a crèche and associated works on the site. (Subject to conditions, the planning authority decision granted permission for 209 units. The Board refused for two reasons: reason 1 related to too low of a density and reason 2 related to inadequate provision for an identified feeder cycle route along the southern boundary of the site along Minister's Road frontage).

**303300-18** Pre Application consultation for 259 residential units (221 houses and 38 duplex/apartment units) and a crèche. Opinion issued: *Requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.*

## 5.0 Section 5 Pre Application Consultation

5.1 A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 14<sup>th</sup> February 2019. Representative of the prospective application, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The applicant was advised that further consideration of the documents as they relate to the followings issues were required:

1. Density and residential unit mix

Further consideration and amendment of the documents as they relate to the density proposed and the residential unit mix. This consideration should have regard to, inter alia, the minimum densities provided for in the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May 2009) in relation to such sites. Particular regard should be had to the need to develop at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to established social and community services in Lusk. The documents at application stage should include a site layout plan clearly indicating what lands (if any) were excluded from the calculation of the net density and a justification (if applicable) as to why such lands were excluded, the justification should have regard to, inter alia, Appendix A of the above mentioned guidelines. Further consideration in the documentation should also be given to the unit mix having regard to the need to deliver sustainable communities in new residential developments.

## 2. Site layout and urban design strategy

Further consideration and amendment of the documents as they relate to the proposed site layout and urban design strategy. In that regard, the following matters should be addressed in the documentation:

- (i) Notwithstanding the contents of the statement of consistency relating to the 12 criteria of the 'Urban Design Manual – A best practice guide' (May 2009) submitted at pre-application stage, An Bord Pleanála is of the opinion that the documentation relating to site layout and overall urban design strategy could be better informed by the stated 12 criteria. The documentation at application stage should clearly indicate how the 12 criteria were applied and, in that regard, the submitted drawings, as well as the written statements, should demonstrate consistency with the 12 criteria.
- (ii) The statement of consistency submitted does not make reference to the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (December 2018). The documentation – drawings as well as

written statements - at application stage should demonstrate consistency with these (and other) guidelines.

- (iii) Further consideration and/or justification of the documents as they relate to the proposed road/street layout. Notwithstanding reference to the submission of a document titled 'Statement of Compliance with DMURS' (ref. page 26 of 'Planning Report & Statement of Consistency' – Delphi Architects + Planner), no such document was submitted. Consistency with the principles, approaches and standards as set in DMURS, which include, inter alia, a multidisciplinary design process, should be evident in the overall layout.

Further consideration of the above may require possible amendment to the documents and/or design proposals.

(3) Quantum and distribution of public open space

Further consideration and/or justification of the documents as they relate to both the quantum and distribution of the open space provision across the site. The documentation at application stage should address the rationale for the location of the open space and also how it interfaces with, and relates to, the lands adjoining the site to the east which are zoned open space in the statutory development plan for the area.

(4) Wastewater infrastructure

Further consideration and clarification in the documents with regards to the proposed wastewater services. In particular, the consideration/clarification should address the contents of the submission from Irish Water (dated 23/01/19) concerning the need to upgrade the Chapel Farm wastewater pumping station to facilitate the connection of the development to wastewater infrastructure. Clarity is required at application stage as to what upgrade works are required, who is to deliver these works, when are the works to be delivered relative to the completion of the proposed housing development and whether such upgrade works are to be the subject of separate consent processes. The prospective applicant should satisfy himself/herself that the application for the

proposed development is not premature pending the delivery of the upgrade works referred to above.

(5) Crèche location

Further consideration and/or justification in the documents as they relate to the location of the proposed crèche and its interface/relationship with the surrounding open space if the proposed location as indicated in the pre-application consultation documents is to be maintained.

5.2 Furthermore, the prospective application was advised that the following specific information should be submitted with any application for permission:

1. The information referred to in article 299B(1)(b)(ii)(II) and 299B(1)(c) [if applicable] of the Planning and Development Regulations 2001-2018 in a standalone document.
2. A site layout plan indicating what areas are being proposed to be taken in charge by the local authority. In that regard, all routes of connectivity (pedestrian, cycle and vehicular) to adjoining lands, where proposed, should be indicated going right up to the shared boundary with adjoining lands.
3. A response to the issues raised in the submission from the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht (dated 11<sup>th</sup> January 2019) concerning archaeological heritage protection.
4. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including furniture and play equipment, where proposed. The landscaping plan should provide colour coded details of walking/cycling routes proposed within the development.

**6.0 Applicant's Statement**

6.1 A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act

of 2016. This statement provides a response to each of the issues raised in the opinion: 1) density & residential mix, 2) site layout & urban design strategy, 3) quantum and distribution of public open space, 4) wastewater infrastructure and 5) crèche location.

1) Density & residential mix: The proposed development has been amended to reflect the items that required further consideration, including the quantum of development and unit mix. The development has been increased from 259 to 359 units. The proposed density is 42.5 units per hectares, consideration has also been paid to achieving both an efficient density of development that is comprised of a variety of housing typologies. The site layout provides for different character areas.

2) Site layout & urban design strategy: The development has been significantly redesigned from that submitted to An Bord Pleanála. Judicious consideration has been paid to the implementation of the 12 criteria of the 'Urban Design Manual- A best practice guide' (May 2009). An 'Architectural Design Statement' which sets out the urban design principles applied to the site layout plan, the design rationale for the proposed development and how the proposed site layout complies with the aforementioned 12 criteria. A DMURS statement has been submitted.

3) Quantum and distribution of public open space: There are five primary areas of public open space providing for over 9600sq.m (0.96ha) which equates to over 11% of the overall site area. A 'Landscape Rationale' document is submitted and contains proposals for the design and function of the open space. As part of the overall development, a linear park is proposed along the eastern boundary of the site, at the boundary with the adjoining GAA pitch. Views from the development will be afforded of the GAA lands with the function of this linear park including the provision of a green link through the site and a buffer between residentially zoned land and open space lands to the east, along with passive recreation in terms of walking and seating catered for.

A Material Contravention Statement is submitted in relation to the quantum of proposed public open space which is summarised below.

4) Wastewater infrastructure: The applicant has engaged with Irish Water to discuss requirements for the proposed development. The existing pumps in the pumping station at Chapel Farm may need to be replaced. The applicant has confirmed that they are willing to either fund the replacement of same or carry out the replacing of same, whichever is more preferable to Irish Water., The applicant has been informed by Irish Water that the requested PWSA for signing is not required at this stage, but confirm that the applicant will enter in the necessary agreements with Irish Water, if so required. The process of replacing the pumps in an existing pumping station will not require a separate consent process, as such work in the opinion of the applicant do not constitute 'development' as defined by the Planning and Development Act 2000 (as amended).

The proposals submitted and the details submitted relating to existing capacity of the pumping station do not render the proposed development as being premature as the applicant is willing to undertake/fund the replacement of the pumps, if necessary upon agreement with Irish Water.

5) Crèche location: The development put forward for permission has been significantly redesigned from the proposal presented at pre-application consultation, including the relocation of the proposed crèche. Given the significant amendment of the overall proposal in which the current proposal provides for a two storey crèche (c.484.6sq.m) located at the junction of Roads 1 and 2, which has a dedicated play area to the rear of same, associated carparking and set down area, all of which will have no impact on any of the proposed public open spaces.

The applicants have also attempted to address points 1 to 4 of the additional specific information.

## **6.2 Material Contravention Statement**

6.2.1 The applicant has set out that the proposed development contravenes the Fingal City Development Plan 2017-2023 with respect to the quantity of public open space provided. The applicants have submitted a statement of Material Contravention in accordance with Section of 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the Development Plan, the Board may grant permission where it considers that:

*(i) the proposed development is of strategic or national importance,*

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,*

*or*

*(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,*

*or*

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

6.2.2 Section 3.5 and 12.7 of the current Development Plan set out the criteria for public open space provision. The Development Plan requires that in terms of quantity 'sufficient quantities of open space and recreational facilities are provided for and that for all developments with a residential component, the overall standard for public open space provision is a minimum 2.5 hectares per 1,000 population. In general, this shall be provided at a ratio of 75% Class 1 and 25% Class 2.

6.2.3 Objective PM52 *requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purpose of this calculation, public open space requirements are to be based on residential units with an agreed*

*occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.*

6.2.4 For all developments with a residential component, the overall standard for public open space provision is a minimum of 2.5 hectares per 1,000 population. In order to provide existing and future communities with adequate recreational and leisure opportunities, the Council will employ a flexible approach to the delivery of public open space and more intensive recreational/amenity facilities. It is the intention of the Council, however, to ensure, except under exceptional circumstances, public open space provision exceeds 10% of a development site area.

6.2.5 Objective DMS57 *require a minimum public open space provision of 2.5 hectares per 1,000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.*

6.2.6 Objective DMS57A *Require a minimum 10% of a proposed development site area be designated for use as public open space. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.*

*The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/ amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.*

6.2.7 Objective DMS57B require a minimum of 10% of a proposed development site area be designated for use as public open space. The Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5, such contribution being held solely for the purpose of acquisition or upgrading of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.

*The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable, subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.*

*Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class2 and 75% Class 1 in to the development costs of the open space.*

6.2.8 As part of the overall residential development put forward for permission, there are five primary areas of public open space, providing for over 9,000sq.m (0.96hectares) which equates to over 11% of the overall site area.

- 6.2.9 The applicant has put forward that the proposed development complies with some of the stated Objective DMS57B, whereby the Council has the discretion to accept a financial contribution in lieu of remaining open space requirement, which was also noted by the An Bord Pleanála Inspector in assessing the previous development proposal under 301001-18.
- 6.2.10 It is respectfully put forward by the applicant that under section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended) An Bord Pleanála can grant permission for the proposed development having regard to the Guidelines for Planning Authorities on Sustainable Development in Urban Areas (2009) and by reference to the policies and objectives stated in the National Planning Framework.
- 6.2.11 It is also put forward by the applicant that while the minimum public open space provision of 2.5 hectares per 1,000 population ratio is not being met by the proposed development (as required under Objectives PM52 and DMS57), the provision of over 10% of public open space meets the Development Plan's minimum requirement for public open space provision (as required under Objectives DMS57A and DMS57B) – this in addition to the discretion of the Council to accept a financial contribution in lieu of the remaining open space requirement (as provided under Objective DMS57B). Therefore, the proposed quantum of public open space of 0.96hectares or over 11% of the site area, allows for the delivery of an efficient and required density of 42.5 units per hectares and in in keeping with the proper planning and sustainable development of the area and can therefore be granted permission.
- 6.2.12 The applicant advises the Board that the proposed quantum of public open space and resultant density of the development is in keeping with the proper planning and sustainable development of the area and that permission may be granted for it under section 37(2)(b)(iii) of the 2000 Act having regard to the 2009 Sustainable Urban Housing Guidelines.

6.2.13 I note the Material Contravention statement and the arguments put forward by the applicant in favour of the development. I conclude that the Board can grant permission for the development having regard to the 2009 Sustainable Urban Housing Guidelines. I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2)(b) (iii).

## **7.0 Relevant Planning Policy**

### **7.1 National Planning Framework**

Chapter 4 of the Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 4 sets out to ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being. National Policy Objective 13 provides that in urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

### **7.2 Section 28 Ministerial Guidelines**

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual Best Practice Guidelines') (2009)

- Sustainable Urban Housing: Design Standards for New Apartments (2018).
- Urban Development and Building Height Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (DMURS) (2013).
- The Planning System and Flood Risk Management – Guidelines for Planning Authorities (including the associated Technical Appendices) (2009).
- Childcare Facilities – Guidelines for Planning Authorities (2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities (2009).

Other relevant national guidelines include:

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

### **7.3 Eastern and Midland Regional and Spatial Economic Strategy (RSES)**

The RSES including the Dublin Metropolitan Area Strategic Plan (MASP) was adopted on the 3<sup>rd</sup> of May 2019.

Lusk is located in the ‘hinterland area’ as defined by the RSES, which includes the northern part of County Fingal. Growth enablers for the hinterland area include:

- To promote continued growth at more sustainable rates, while providing for increased employment and improved local economies, services and functions to allow towns to become more self-sustaining and to create the quality of life to attract investment.

- ‘Catch Up’ investment to promote consolidation and improvement in the sustainability of those areas that have experienced significant population growth but have a weak level of services and employment for their residents.
- Diversification and specialisation of local economies with a focus on clustering, smart specialisation, place making and urban regeneration to create the quality of life to attract FDI and indigenous investment and increase high value knowledge-based employment including second site and relocation opportunities.
- Promote the Region for tourism, leisure and recreational activities including development of an integrated greenway network while ensuring that high value assets and amenities are protected and enhanced.

**7.4 Fingal County Development Plan 2017-2023** is the operative County Development Plan for the area.

Lusk is identified as a Moderate Sustainable Growth Town located with the Hinterland area of the Fingal County Development Plan.

- The bulk of the site is zoned RA ‘Residential Area’ with an objective to *‘provide for new residential communities subject to the provision of the necessary social and physical infrastructure’*. The zoning vision is to *‘ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities’*. Residential development is permitted in principle in this zone.
- A section of the site is zoned GE ‘General Employment with an objective to *‘Provide opportunities for general enterprise and employment’*. The zoning vision is to *‘facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible’*.

- Objective SS20: Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development.
- Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- The Development Strategy for Lusk, contained in Chapter 4 'Urban Fingal' seeks to conserve and enhance the unique character of the town core, consolidate the planned growth of the town and to ensure that the level of retail and local services grows to serve the expanding town population. The following objectives are also considered relevant:
  - Objective LUSK 4 is to retain the traditional hedgerow boundary treatment characteristic of the town. The objectives states that the protection and enhancement of existing boundary hedgerows and trees shall be required save where limited removal is necessary for the provision of access and promote the planting of hedgerows and trees using native species within new developments.
  - Objective LUSK 7 is to ensure that existing and future development is consolidated within well-defined town boundaries to maintain the distinct physical separation of Lusk and Rush.
  - Objective LUSK 11 is to prepare and/or implement Masterplans during the lifetime of this Plan for the identified Masterplan areas including the Minister's Road Masterplan (Map Sheet 6A: MP 6.B refers). The objectives states that the main elements to be included in the Ministers Road Masterplan should include the provision of a new community facility with a minimum of 300 square metres, provision for phased residential development ensuring that playing pitches and the community facility are provided in tandem, and ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council.
- Objective MT13: Promote walking and cycling as efficient, healthy, and environmentally-friendly modes of transport by securing the development of a network of direct, comfortable, convenient and safe cycle routes and footpaths, particularly in urban areas.

- Objective MT14: The Council will work in cooperation with the NTA and adjoining Local Authorities to implement the *Greater Dublin Area Cycle Network Plan* subject to detailed engineering design and the mitigation measures presented in the SEA and Natura Impact Statement accompanying the NTA Plan.
- Objective MT41: Seek to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period, subject to assessment against the criteria set out in Section 5.8.3 of the NTA Transport Strategy for the GDA, where appropriate and where resources permit. Reserve the corridors of the proposed road improvements free of development. Ministers Road upgrade is listed as a proposed road scheme in Table 7.1.
- Section 12.3 of the Development Plan sets out design criteria for urban development and includes quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc. Reference is made to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development and to the Design Manual for Urban Roads and Streets, which was published jointly with the Department of Transport Tourism and Sport. Policy objectives PM31 to PM33 promote good urban design practices in accordance with these guidelines.
- With respect to residential densities, the Development Plan states that regard should be had to the government's guidelines (*Sustainable Residential Development in Urban Areas, Urban Design Manual*) (Objective PM41).
- Sheet No.6 Lusk / Rush: The site is within the development boundary of Lusk and is within Masterplan area "MP 6.B".

- Objective PM52 requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purpose of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.
- Objective DMS57 require a minimum public open space provision of 2.5 hectares per 1,000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.
- Objective DMS57A Require a minimum 10% of a proposed development site area be designated for use as public open space. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5.

The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/ amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.

- Objective DMS57B require a minimum of 10% of a proposed development site area be designated for use as public open space. The Council has the discretion to accept a financial contribution in lieu of remaining open space requirement required under Table 12.5, such contribution being held solely for the purpose of acquisition or upgrading of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities subject to the open space or facilities meeting the open space ‘accessibility from homes’ standards for each public open space type specified in Table 12.5.

The Council has the discretion to accept a financial contribution in lieu of the remaining open space requirement to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable, subject to the Regional Park meeting the open space ‘accessibility from homes’ standard specified in Table 12.5.

Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class2 and 75% Class 1 in to the development costs of the open space.
- The Lusk Local Area Plan 2009, contained local objectives relating to the subject site and its immediate environs. However, this plan has expired and is superseded by the more up to date policy context contained in the Fingal Development Plan 2017-2023.

## **7.5 Applicant’s Statement of Consistency**

A Statement of Consistency with local and national policy has been submitted with the application, as per Section 8(1)(iv) of the Act of 2016.

## **8.0 Third Party Submissions**

8.1 9 submissions were received from third parties and 4 from Prescribed Bodies. There is a degree of repetition amongst the issues raised in the submission and I therefore proposed to summarised them by issue rather than individually. A list of the submissions received is contained in Appendix 1 of this Report. The main point of concern raised are:

Validity of Application:

- Application lodged is invalid as the application includes lands zoned for GE (General employment) as well as RA zoned lands which is contrary to the information contained in the application for dated 4<sup>th</sup> October 2019 submitted to An Bord Pleanála. The site with an area of c.8.44hectares covers two zonings. Furthermore the pre-application consultation with Fingal County Council was for 262 dwellings and a crèche on a site with an area of c.8.26ha, the pre-application consultation with An Bord Pleanála was for 259 dwellings and a crèche and the application as lodged is for 359 residential units and a crèche. It is not clear how the proposal has grown in size.

Policy:

- The proposed layout comprises the Masterplan as required by Fingal County Council Development Plan 2017-2023. The proposal infringes on GE (General Employment) zoned lands and compromises the future master planning of the GE neighbouring lands to the west and the agricultural zoned lands to the north.
- Based on the current County Development Plan standards, a development with 359 residential units would require 2.311 hectares of public open space not 0.96 hectares as currently proposed, which equates to less than 50% of the which is required. Furthermore, the proposal contains at least one linear area of open space that at best could be described as an ancillary roadside margin.

#### Design & Scale:

- Section 5.5 and 5.6 of the Guidelines for Sustainable Residential Development in Urban Areas is applicable to the lands in question, not section 5.11 as claimed by the developer leading to their basis for a housing density of 42.5 units per hectare and grossly inadequate public open space to serve the needs of future residents.
- The use of red brick is inappropriate and is not in keeping with the context of existing housing along Ministers Road or the rural setting.
- The location of 15 no. three storey houses with direct vehicular access off Minsters Road is completely inappropriate due to the current volume and speed of traffic along this road and the proximity of a dangerous bend. It does not take into account the existing precedent of the boundary wall and railing of the Dun Emer housing estate, opposite the application site, which is predominantly a two storey housing estate.
- The scale and design of the apartment blocks adjacent to Minsters Road, which overlook Round Tower GAA pitches are not appropriate for this semi-rural site and do not complement the existing built environment.

#### Community Facilities & Local Amenities:

- Non-compliance on the delivery of outstanding Class 1 Open Space for the Community. Outstanding issues relating to 'The Forge' housing development and delivery of Class 1 open space.
- Concerns relating to the volume of Class 1 Open Space provided as par to the proposed development, particularly from the viewpoint of active-sporting recreational lands for the sports clubs within the community.

- The local sports clubs are currently subscribed to capacity and the scale of this proposed development would dangerously over-stretch the club from the viewpoint of existing amenities.
- The overall design does not constitute a sustainable development in line with 2009 Guidelines and will likely contribute to community and social issues for the town of Lusk into the future.
- Round Towers GAA club have highlighted concerns in relation to the common boundary between their property and the subject site. The provision of boundary consisting of a combination of a 2m high block walls, 1..2m high railings and hedges is completely unsatisfactory as it would leave the Club grounds unsecured, would lead to trespassing of club lands, would lead to unsupervised and uncontrolled access to their lands and would encourage anti-social behaviour on the GAA Club lands. If permission is granted the common boundary between the properties should be a secure boundary, ideally a combination of a 2m high block wall and 2m high fencing with the appropriate hedging either side.
- The provision of a crèche does not equate to the provision of a community facility. The proposed crèche with a capacity of 95 places will not meet the needs of the community. There is a shortage of childcare places in the area due to residential developments being built in the past without providing facilities.
- The town has a population of over 7000 but does not have adequate community facilities. The provision of an additional 359 residential units will put further demand on the existing oversubscribed facilities and sports clubs.
- The schools assessment is incorrect, alleging 222 capacity in the National School when the current four national schools are currently at capacity (2019 data is 1545 pupil capacity and current enrolment is 1543).

#### Infrastructure:

- Issues with sewerage system and capacity. Issue in Dun Emer associated with smells. Complaints lodged with the Council
- The proposed SHD is fully dependent on existing infrastructure in Lusk, i.e roads, sewerage, community, social, education and retail. The SHD will have significant negative impacts on the existing infrastructure of Lusk.

#### Traffic & Transport:

- Public transport is at capacity (buses and trains) cannot accommodate additional demand that would arise from the proposed development. Rusk & Lusk train station is not easily accessible.
- Lack of infrastructure (footpaths and cyclepaths).
- Traffic implications/traffic hazard. The existing road network does not have capacity to take the additional traffic generated by the proposed development.
- The proposed development does not represent a sustainable development as it is heavily car dependent, does not deliver a high quality environment in terms of amenity, safety and convenience, fails to provide community services required for the area in link with the Masterplan requirements, fails to provide a sustainable mix of residential types and will not enhance or protect green infrastructure or the built or natural heritage.
- There is no provision for visitor parking for the homes directly on Minsters Road or within the development in general.

- There is a 3 tonne limit on Minsters Road, this is not enforced and large vehicles frequently use this road which exacerbates the already hazardous conditions due to the alignment of the road and traffic volumes.
- The provision to two access points off Ministers Road will significantly interfere with the flow of traffic along the public road.
- Development of the site is premature pending the completion of Ministers Road upgrade from the GAA grounds to R132.
- The road infrastructure must be put in place as an integral part of any proposed future development, so the residents of Minster's Road are not left isolated with no access to foot/cycle paths and public transport.

#### Heritage:

- The proposed layout fails to take any account of the medieval archaeological heritage that has been identified on the site.
- The Archaeological Report from F17A/0327 illustrates a significant number of findings and these should be safeguarded and protected, as part of Fingal's Archaeological Heritage.

I have considered all of the documentation included in the third party submissions.

## **9.0 Planning Authority Submission**

- 9.1 In compliance with section 8(5)(a) of the 2016 Act the Planning Authority, Fingal County Council, has submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on the 10<sup>th</sup> December 2019. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members at the Rush, Lusk, Swords Area Committee Meeting of the 14<sup>th</sup> November 2019. 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:

Information submitted by the Planning Authority included details relating to site description, proposal, pre-application consultations, planning history, interdepartmental reports and consultees and a summary of representations received.

## **9.2 Planning Assessment**

The following points are noted:

- The site is predominantly zoned 'RA' Residential Area. 'Residential' use and 'childcare facilities' are considered 'permitted in principle' under the RA zoning objective. The portion of the site which is zoned 'GE' accommodates a road. The development of the site for the uses proposed is acceptable in principle having regard to the role of Lusk in the core strategy of the Development Plan and its residential zoning.
- The residential density of c.43 units per hectare net (based on a site area of 8.2679ha, i.e the area of the site zoned 'RA') is considered acceptable considering the projected yield of residential land in Lusk in the county core strategy and the positioning of the town in the settlement hierarchy, the distance of the site from the town centre and public transport services and the surrounding context. The development would achieve a satisfactory balance between contributing to meeting the core strategy housing target for Lusk while ensuring that an appropriate quantum of development is directed to the town given its role as a hinterland town with a supporting role in accommodating population growth.
- Serious concerns expressed in relation to the frontage of the site onto Ministers Road, particularly noting the semi-rural character and its role as an entrance into the historic settlement of Lusk.
- In terms of TIC, the parking arrangements for some of the duplex and apartment units does not facilitate TIC as the parking areas would remain private parking spaces surrounded by public footpaths, roads or open space. Designated parking or permeable paving will not be taken in charge.

- The Planning Authority notes the submitted 'Architectural Design Rationale' and 'The Quality Housing Assessment'. It is noted that it appears, based on the information submitted that a number of the proposed house types are substandard in respect of internal floor areas. There also appears to be discrepancies in relation to how the internal floor areas for the apartments have been depicted, as noted in the discrepancies in the figures on the table relating to apartment units and the table relating to houses and the reference to minus figures as 'shortfalls' in one table versus the other.
- Serious concerns are noted in relation to overlooking. House type G (duplex) have first floor terraces which are c. 4m off the rear boundary with the houses which front onto Minister's Road and would result in overlooking of the rear gardens of these units. House Type F (duplex) have first floor terraces and second floor windows set back c.6m off the rear boundary with the houses that front onto Ministers Road and would result in overlooking of their rear gardens. The Proposal does not comply with Objective DMS28 of the County Development plan and the residential amenity of the houses in question would be greatly compromised.
- Private Open space for houses is in general in accordance with Objective DMS87 (with the exception of unit No.58).
- The proposed phasing is acceptable.
- The Planning Authority note an Archaeological Impact Assessment has been submitted and mitigation, where required, is proposed. The Submission from the DAU, Department of Culture, Heritage and the Gaeltacht which sets out that the development is generally acceptable subject to appropriate conditions. The Report from the Community Archaeologist mirrors this.
- The Planning Authority noted the Flood Risk Assessment submitted with the application.
- The Planning Authority note that the applicant submitted a pre-connection enquiry form to Irish Water and a Confirmation of Feasibility was issued. The applicant proposes to drain the development to a single connection point on Ministers Road. This catchment drains to the existing Chapel Farm pumping

station. There are existing capacity constraints associated with this pumping station as well as the network downstream, and the applicant will be required to carry out necessary upgrade works in order to progress the connection.

- The drainage proposal is based on a treatment train approach and supplemental to conventional pipes, gullies and manholes includes a number of SUDS features. It is proposed to intercept, convey, treat and attenuate surface water runoff, prior to a single connection into the existing public network on Ministers Road. The discharge rate will be regulated into the existing public network on Ministers Road. The discharge rate will be regulated to the current greenfield rate. The report of the Water Services Engineering Section notes that there is an anomaly between the engineering report and the drawings in terms of whether a 'stormtech' or a granular stone attenuation system is proposed.
- It is noted that the applicant has not submitted a Landscape and Visual Impact Assessment.
- The application site forms part of an area designated for the preparation of a Masterplan in the Fingal County Development Plan 2017-2023. This includes the requirement for a c.300sq.m community facility. Given the scale of the development the Planning Authority is of the view that this should be provided within the development.
- The proposal for 359 residential units falls within the subthreshold category for EIA. The applicant submitted a report in relation to the possible effects on the environment from the proposed development. This concluded that an EIAR was not required. The Planning Authority have deferred this matter to An Bord Pleanála as the competent authority to carry out an EIA of the proposed development.
- A Screening Report for Appropriate Assessment has been submitted. This concludes that the proposed development will not result in any significant effects on Natura 2000 sites and that an appropriate assessment is not required.
- Objective LUSK 11 of the current County Development Plan states that one of the parameters in relation to the Ministers Road Masterplan was 'ensure that

no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council..'. However, in this instance the Planning Authority considered having regard to the location and nature of the proposed development it is not considered necessary in this instance to restrict development on the basis of/pending the preparation of the Management Plan for the Outer Rogerstown Estuary. However, it is also noted that An Bord Pleanála, as the competent authority, will carry out an appropriate assessment of the proposed development.

The Planning Authority have noted serious concerns in their submission in respect of the proposed development, its impact on the amenity of the area and the standard of residential amenity which it will provide. This are summarised as follows:

- The overall layout of the proposed development is heavily influenced by the internal road network, is dominated by surface car parking and makes little reference to the context of the site, that being the historic settlement of Lusk. Serious concerns are expressed in relation to the frontage of the site onto Ministers Road, particularly noting its semi-rural character and its role as an entrance into the historic settlement of Lusk.
- The scale, design and massing of the houses and the apartment buildings within the scheme are considered incongruous with the established pattern of development in Lusk. The proposal would also result in overlooking within the scheme, in particular house type G and F would overlook the private amenity space of the units which front onto Minister's Road.
- Given the scale of the development it is essential that a commensurate level of public open space is provided to serve the recreational requirements of future resident. The proposal does not comply with the Development Plan requirements in respect of public open space, being significantly substandard in respect of same. The provision of play areas within the scheme are similarly substandard by virtue of their location/design and would represent a dis-amenity. This is reflected in Objectives PM31, PM32 and PM33 of the Plan.

- It is not considered that the development as proposed would accord with the approach to housing and placemaking as set out in the NPF and Fingal County Development Plan and provide a quality urban design response for this site which would enhance the residential and visual environment of Lusk.
- In the opinion of the Planning Authority, it is not considered that the imposition of conditions could adequately address the concerns given the extent of revisions which would be required to the design and layout of the scheme. The proposed development would be contrary to the NPF, to the Fingal County Development Plan, and would therefore, not be in accordance with the proper planning and sustainable development of the area and should be refused permission.

9.3 Recommendation to Refuse permission for the following reasons:

1. Having regard to the core principles for delivery of housing and National Objective 4 of the National Planning Framework which seek to deliver future environmentally and socially sustainable housing of a high quality standard for future residents and to ensure the creation of high quality urban places, to the Fingal County Development Plan 2017-2023 which promotes excellence in urban design responses and the promotion of high quality, well designed entries into towns and villages, to the Design Manual for Urban Roads and Streets (2013) and to the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and Urban Design Manual A Best Practice Guide (2009), it is considered that the proposed development by virtue of:

- The layout of the proposed development which is predicated on extensive stretches of long straight roads and cul-de-sacs;
- The extensive areas of surface car parking within the development;
- The scale, design and massing of the proposed dwellings and apartments; and,
- The absence of distinguishable character areas in the scheme;

Does not represent a satisfactory urban and architectural design response for the site, is unsympathetic to the character of the area and of Lusk town, would

be contrary to the aforementioned policy documents and contravene materially the objectives of Fingal County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The public open space serving the proposed development, by virtue of the deficiency in usable space provided, the extent of bicycle and car parking spaces located within the open space and the absence of sufficient play space to serve the community in the proposed development, is contrary to the quantitative and qualitative standards for open space set out in the Fingal County Development Plan 2017-2023, would fail to provide a satisfactory level of amenity for residents of the proposed development and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The layout of the proposed development which includes duplex units with first floor terraces situated approximately 4 metres from the rear boundary of adjoining dwellings would result in significant overlooking of the private amenity space of these dwellings which would significantly adversely affect the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area.

### 9.3 Summary of Inter-departmental Reports

**Parks and Green Infrastructure Division:** Proposal is generally acceptable subject to conditions.

**Transportation Department:** Proposal is generally acceptable subject to conditions.

**Water Services Section:** Proposal is generally acceptable subject to conditions.

**Community Archaeologist:** Proposal is generally acceptable subject to conditions.

### 10.0 Prescribed Bodies

The following Prescribed Bodies made submissions:

1. Irish Water.
2. DAU, Department of Culture, Heritage and the Gaeltacht.
3. Inland Fisheries.
4. An Taisce.

**Irish Water:** Based on the details provided by the developer and the Confirmation of Feasibility issued by Irish Water, Irish Water confirms that subject to a valid connection agreement being put in place between Irish Water and the developer, the proposed connections(s) to the Irish Water network(s) can be facilitated.

**DAU, Department of Culture, Heritage and the Gaeltacht:** No objection subject to conditions.

**Inland Fisheries:** Requirement for comprehensive surface water management measures, a detailed Construction Environmental Management Plan and the retention of tree stands, hedgerows and ditches. Filling in of old field boundaries to be avoided.

**An Taisce:** New development should be sited and phased in ways to promote a modal shift to sustainable transportation. The site is located on the fringe of Lusk's built up area, it is not served by a frequent bus services and is located at a distance from the train station. The cycle lane infrastructure does not connect the site to Lusk as it terminates at the junction with Hand's Lane. The development should be properly phased with regard to the provision of local services in the western portion of the town as well as additional sustainable transport measures and infrastructure in the area. Furthermore Ireland's obligations under the Climate Action and Low Carbon Development Act 2015 need to be addressed.

## **11.0 Oral Hearing Request**

None requested.

## **12.0 EIA Preliminary Assessment**

12.1 The application was submitted on after the 1<sup>st</sup> of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

12.2 Item (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 developments which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built up area and 20ha 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).

- 12.3 The proposed development is for 359 residential units and a crèche on a site within an overall area of c.8.44 hectares. It is therefore considered that it does not fall within the above classes of development and does not require a mandatory EIA.
- 12.4 As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or an EIA determination requested, a screening determination is required to be undertaken by the Competent Authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effect on the environment. This preliminary examination has been carried out and concludes that, based on the nature, size and location of the development, there is no real likelihood of significant effect on the environment. The need for EIA is therefore precluded and a screening determination is not required.

## **13.0 Assessment**

13.1 The following are the principal issues to be considered in this case:

- Principle, Quantum and Density of development.
- Design and layout.
- Impact on Amenity.
- Traffic and Transportation.
- Drainage.
- Archaeology.
- Part V
- Appropriate Assessment
- Biodiversity.

### **13.2 Principle, Quantum and Density of Development**

- 13.2.1 The core strategy of the Fingal County Development Plan 2017-2023 identifies Lusk as a Moderate Sustainable Growth Town in the hinterland of the county. Table 2.8 states that Lusk has an available residential land supply of 45 hectares with a residential capacity of 1218 number residential units. Objective SS20 sets out the development of Lusk, Rush and Skerries shall be in a planned manner linked to the capacity of local infrastructure to support new development considered acceptable on this basis, The bulk of the application site is zoned under land use objective RA for new residential development. A section of the site is zoned under land use objective GE, general employment. An access road (Road 1) is proposed on said lands that will serve the proposed development of 359 residential units and a crèche located entirely on the RA zoned lands. I note that there are indicative links to the GE lands for potential future use shown on the plans submitted. I am satisfied that the principle of residential development on the site is acceptable.
- 13.2.2 The submissions have referred to objectives in the Lusk Local Area Plan 2009. This LAP has expired and is superseded by the policies and objectives of the Fingal County Development Plan 2017-2023. I do not consider the objectives of the LAP to be relevant in the context of the current application.
- 13.2.3 The issue of the development being premature pending the preparation of a Masterplan for the area in accordance with Objective LUSK11 has been raised. I note that Objective Lusk 11 set out that a Masterplan should be prepared for the lands zoned RA (Residential Area), OS (Open Space) and GE (General Employment) located to the north of Ministers Road. The objective also sets out the requirement for a new community facility, playing pitches should be provided in tandem with residential development. I draw the Board attention to Lusk 11 and the requirement for a community facility, this refers to the Masterplan area as a whole and not solely the application site. The objective also states the that the Masterplan should ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council. The Planning authority's submission noted that in

this instance it is not considered necessary to restrict development on this site on the basis of/pending the preparation of a Management Plan for the Outer Rogerstown Estuary.

- 13.2.4 I have examined the County Development and the Planning history of the site and I note the Board did not refuse permission under ABP 301001-18 on the basis that the development of the site was premature pending the preparation of the Minister's Road Masterplan. I consider, given the location of the site on lands zoned RA, opposite an established residential area, represents a natural expansion of Lusk located on a main approach to the town and within close proximity of same. Given the context of the site it is not dependent on matters of principle which may be determined by a Masterplan. The development of the site for residential purposes would not compromise the future development potential the GE lands to the west of the development or the OS lands to the east (Round Tower GAA club).
- 13.2.5 The applicant has revised the overall scheme on foot of the ABP Opinion. The proposed development has increased from 259 residential units to 359 and the density increased accordingly. The development of 359 units on a site with a stated area of 8.44ha (including the access road on GE zoned lands) has a density of 42.5 units per hectare (uph) or based on a site area of c.8.2679ha (lands zoned RA) has net and gross density of 43 units per hectare. The Guidelines for Sustainable Residential Development in Urban Areas sets out in section 5.11 that the greatest efficiency in land usage of outer suburban/greenfield sites will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare, that such densities should be encouraged generally, and that development at net densities of less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed density of 42.5 uph (using the overall site area) or 43uph using the RA zoned lands is in accordance with the guidance for outer suburban/greenfield sites not within 1km of public transport corridor.

13.2.6 The housing mix has also been revised on foot of the ABP opinion and as a resultant increase in the number of units. I consider the unit mix is good with 34 x 1 bed units (9.5%), 132 x 2 bed (37%), 152 x 3 bed (42%) and 41 x 4 bed units (9.5%) proposed. The development offers a good mix of unit types ranging from townhouse, duplex to apartments. This would lead an acceptable population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual. The proposed house type will improve the range of housing types available in the area which is predominately characterised by low density suburban housing. The proposed housing mix is acceptable and is in accordance with SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities. The provision of apartments within the scheme and at this location is also in accordance with the guidance set out in the Guidelines for Planning Authorities on Sustainable Residential Development.

### **13.3 Design and Layout**

13.3.1 At the outset I consider it appropriate to acknowledge that the development would give rise to a change in the character of the area particularly when viewed from the adjoining GAA pitches and the houses on the opposite side of Minister's Road. The introduction of buildings constitutes a significant landscape and visual impact. The matter for the Board to determine is whether that impact would fall within the parameters set by the Development plan and national Guidelines.

13.3.2 I acknowledge that the location of the site, its shape and overall context as a natural extension to Lusk lends itself to appropriate development. And that the application bares little resemblance to the proposal for 239 residential units that was the submitted for pre-application consultation and that the current proposal has evolved from the ABP Opinion and the items that required further consideration. However, I have serious concerns with regards to the overall layout of the scheme taking into account section 28 Guidelines, in particular Sustainable Residential Development in Urban Areas – Guidelines for Planning

Authorities and the associated Design Manual, which sets out 12 criteria to be met. Following on from the ABP Opinion the applicant has submitted a proposal for 359 residential unit (an increase in 100 units) and as a result has increased the density to one more appropriate for the site. My concerns do not lie with the increased density, rather the overall layout of the development which is dominated by roads and surface parking together with the location and disposition of the areas of public open space proposed.

13.3.3 The applicant has outlined that the development is broken up into a series of character areas which is reflected in the pallette of materials used and landscaping features. The potential to create character areas, a sense of place, a good variety of unit type in accordance with the Urban Design Manual has not been achieved in this instance. Roads are flanked by boundary walls to rear garden throughout the scheme. The provision of 2m high walls at key locations is a poor design response and is not conducive to a good quality environment, detracting from the amenity of the development, resulting in potential future residents walking, cycling and driving by section of walls. Houses do not address corners, which is a missed opportunity to create strong urban edges within the development.

13.3.4 The Design Manual for Urban Roads and Streets (DMURS) provides guidance in relation to the design of urban roads and streets with the aim of creating streets that are safe, attractive and comfortable for all users. Section 4.4.9 states that on street parking has a finite capacity. The Guidelines state that in residential areas “on-street parking alone can generally cater for densities up to 35-40 dwellings per hectare (net). Once densities reach 40-50 dwellings per hectare (net) the street will become saturated with parking and reduced parking rates (a max of 1.5 per dwelling) and / or supplementary off-street parking will be required. For densities over 50 dwellings per hectare, large areas of off-street parking, such as basements, will generally be required”. DMURS also recommends that “to reduce the visual impact of parking the number of parking spaces per bay should generally be limited to three parallel spaces and six

perpendicular spaces” and that “perpendicular parking should generally be restricted to one side of the street to encourage a greater sense of enclosure and ensure that parking does not dominate the streetscape”.

13.3.5 The proposed development with a density of 43 units per hectare, therefore guidance set out that reduced parking rates (a max of 1.5 per dwelling) and/or supplementary off-street parking will be required. The development provides car parking at a rate of 2 spaces per house, resulting in 446 in curtilage spaces for the houses. Concerns have been raised that the area to the front of some of the units, the terraced house in particular is too narrow to accommodate 2 cars to park. Surface parking (208 spaces) is provided adjacent to the apartment blocks at a rate of 1.5 spaces per apartment. The applicant has argued that given the location of the site c. 3km from the train station (Rush/Lusk Station) and the lack of retail provision in the immediate vicinity that this rate of parking is justified. The sustainability of the development and its car dependency has been raised by third parties.

13.3.6 While I note that the proposed layout achieves a degree of vehicular, pedestrian and cycle permeability, I have concerns relating to the dominance of roads within the layout. There are two access roads off Minister’s Road, Road 1 is designed to facilitate future access to the GE lands located to the west. Throughout the scheme potential links to adjoining lands are shown, this includes indicative links to third party lands. The Planning Authority have raised serious concerns regarding the length of the roads with cul-de-sac off them. Long, unbroken, roads are not conducive to a safe environment for prospective applicant and are discouraged. Furthermore the extent of surface parking throughout the scheme is a concern and contrary to national guidance. I do not consider it appropriate to address this by condition as it would result in fundamental alterations to the overall layout of the development.

13.3.7 The proposal includes a childcare facility with an area of c.484.6sq.m, its location and design are considered acceptable subject to conditions.

- 13.3.8 The development provides a stated total of c. 0.096ha of public open space, or c. 11% of the site with a stated area of 8.44ha. Five primary areas of public open space are proposed.
- 13.3.9 The Planning Authority have noted that the applicant is proposing less than 50% of the required public open space. Based on the projected occupancy of c.924.5 bed spaces a total open space 2.3ha is required. The submission also notes that given the prevalence of SUDS within the main areas of public open space, only 3 areas of open space are acceptable within the scheme, specifically a 715.7sq.m pocket park, a 869.7sq.m pocket park and a 1,250.5 sq.m pocket park and the linear area along the eastern boundary. The Planning Authority have estimated that the proposed usable open space equates to 4,585sq.m (c.0.4585ha) resulting in a shortfall of c.18,527sq.m. The Planning Authority note concerns as this is significantly below the 10% required under Objective DMS57B and has recommended refusal on those grounds.
- 13.3.10 A financial contribution of €1,087,408 in lieu of the shortfall is recommended in the event of a grant of permission. I note the Planning Authority's concerns relating to SUDS measures, however the provision of attenuation systems under areas of open space over attenuation tanks would generally be considered acceptable and taken into account as public open space. Therefore the overall percentage of public open space provided is unlikely to fall substantially below the required 10%. The proposed quantum of public open space is considered acceptable given the context of the site and its proximity of designated area of open space. I note that the Fingal County Council Development Contribution Scheme 2016-2020 includes contributions for community and parks facilities and amenities.
- 13.3.11 I am concerned with the quality of the public open space proposed, its location and disposition. An area of open space located on the southwestern corner is bounded on three sides by a road with the fourth side bounded by a path and the 2m high boundary walls along the rear gardens of No. 53 and 57. The second main area of open space is located to the north of road 4 and is

centrally located with the northern section of the development and adequately overlooked.

13.3.12 Concerns have been raised by third parties in relation to the proposed linear area of open space along the eastern boundary with the adjoining GAA club which could have security implications for their property. I note the concerns raised, however permeability and connectivity is encouraged, subject to the relevant consents. This area is envisaged to be used for active and passive recreation, it includes a path with some seating and bicycle parking and provides a buffer to the adjoining playing pitches associated with Round Towers GAA club. The issue of boundary treatment and landscaping can be dealt with by condition if the Board considers it appropriate.

13.3.13 I acknowledge that a residential scheme for 228 units was refused permission on this site and the excessive provision (c. 1.9ha) of public open space was referenced. The ABP Opinion set out that the quantum and distribution of public open space required further consideration and while I note that the development before the Board is different from that submitted at consultation stage the issue of the distribution and quality of public open space within the development is not acceptable. I note that no MUGA is proposed, this has not been justified in the documentation submitted.

13.3.14 I have addressed the issue of material contravention in section 6.3 of this report. I note that permission was refused under ABP Ref. 301001-18 for 228 residential units where c. 1.94ha of open space was proposed as it was considered that level of open space provision was considered excessive and conflicted with national policy guidance in relation to the efficient use of residential lands.

13.3.15 With regard to the playground/areas the Planning Authority have estimated that there a shortfall of c. 1,436sq.m as the areas proposed are either too close to residential units (No. 172) or peripheral and remote from the majority of the

development and therefore not acceptable. The Planning Authority has recommend that permission be refused on these grounds and if permission is granted that a contribution in lieu of 1436sq.m of €637,584 be attached.

- 13.3.16 I note the Planning Authority's comments, however I consider the location of the three designated play area/playgrounds acceptable. They are overlooked and accessible for the residential within the overall scheme.
- 13.3.17 I do not consider that the proposed development will incur exceptional costs in relation to parks and amenities. I therefore consider that the recommended special development contributions should not be required if the Board is disposed to grant permission.
- 13.3.18 Private open space is provided to all units in the form of rear gardens for the houses and balconies/terraces for the duplex and apartments. All private open space is considered to be generally acceptable. Permeability throughout the site is acceptable, connections with the wider area are noted and indicative links to adjoining lands are shown on the plans submitted.
- 13.3.19 The design of the proposed residential units are contemporary in style with quality materials and finishes proposed. The overall form, massing and design of the scheme is acceptable and I do not agree with the Planning Authority's view that the residential units would be visually incongruous at this location. The site is on lands zoned residential within the development boundary of Lusk town, while at present it retains a semi-rural character. Given its location, land use zoning and the adjoining GE zoned lands it is not considered that the development of this lands should reflect the rural character of lands to the west that are outside any defined development boundaries. The southern side of Ministers Road has been developed for residential purposes and is urban in character. The proposed development forms a strong urban edge on this approach to the town centre and does not detract from the character of the area or the historic heritage of Lusk. I am satisfied that the site can absorb an appropriate residential development and with appropriate landscaping will further assimilate into the urban grain of the area.

- 13.3.20 The development has multiple types of units ranging from townhouse, terraced houses, duplex to apartment blocks. Heights range from 2 and 3 storey houses and duplex to 4 storey apartment blocks. I am satisfied with the variety proposed. The location of the 4 storey apartment blocks along Ministers Road and within the scheme offer strong edges and focal points. I note that the applicant has referred to five character areas within the scheme, this appear to be associated with unit types and road surfaces, rather than external materials and finishes. The overall palette of material is limited. Houses have parking within the curtilage and duplex and apartments are served by surface parking. The Planning Authority raised the extent of surface parking as an issue and recommend that undercroft or basement parking be considered. I do not consider it appropriate to deal with this matter by condition.
- 13.3.21 While I consider that the principle of the development is acceptable and in general the overall design of the units, and the height of the apartment blocks are acceptable. I consider that the proposed development has a number of layout and design issues that need to be addressed. A clear distinction between the character areas would be beneficial given the scale of the development. My main issues is with the overall layout and the domination of roads and surface parking throughout the scheme, which taking in conjunction with the poor location and disposition of the areas of public open space result in a development that is substandard. Given the extent of the amendments required I do not consider it appropriate to address this outstanding issues by way of condition in this instance. I am of the view that the alterations required would result on alterations to the overall layout which I consider would be more appropriately done through a new application
- 13.3.22 The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness.

On balance I consider that the proposed development results in a poor design concept that is substandard in its form and layout; fails to provide high quality usable open spaces; is dominated by road and surface car parking; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants. The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these aforementioned Ministerial Guidelines, in particular the “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### **13.4 Impacts on Amenity**

- 13.4.1 Objective DMS24 of the current Fingal Development Plan requires a minimum separation distance between directly opposing first floor windows and this shall be increased in residential developments over three storeys. The Planning Authority have recommended that the development be refused permission on the grounds of overlooking. House type G (duplex) have first floor terraces positioned 4m off the rear boundary with the houses which front onto Ministers Road resulting in overlooking of the rear gardens of these houses. House Type F (duplex) has first floor terraces and second floor windows c. 6m from the rear boundary of the houses fronting onto Ministers Road and also results in overlooking of rear gardens.
- 13.4.2 I draw the Board attention to Objective DMS24 which refers to the separation distances between first floor opposing windows, not set back from the boundaries. The first floor terrace of house type G are set back ranging from c.5.5m to 6m from the boundary, the gardens of house type A which front onto Ministers Road have garden depths ranging from c.15.6m to c.16m. This results in separation distances on average of c.21.2m from the terrace. The first floor terrace of house type F are set back ranging from c.4m to 5m from the

boundary, the gardens of house type A which front onto Ministers Road have garden depths ranging from c.15.6m to c.16m from the terrace This results in separation distances on average of c.17m. I note the design of the houses and the relationship of the units with each other. I do not consider that this would have such a detrimental impact on residential amenities to warrant a reason for refusal on these grounds.

- 13.4.3 The development is not bounded by existing residential developments, the closest residential properties is a single house to the west, a driving range is also located here and Dun Emer housing estate, on the southern side of Ministers Road, opposite the application site.
- 13.4.4 There are discrepancies in the information submitted with the 'Quality Housing Assessment' in respect to internal floor area and where there are potential shortfalls. This has implications for assessing whether or not the units comply with the requirements of the Design Standards for New Apartments – Guidelines for Planning Authorities. This matter should be addressed clearly in any documentation submitted with any future application.
- 13.4.5 The site is challenging due to its prominent location along Ministers Road on a main approach to Lusk. The applicant has attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution. I am satisfied that the proposal is an appropriate design intervention at this location as it adequately addresses the prominent nature of the site.
- 13.4.6 In my view, the use of high quality materials and finishes and contemporary design offers an opportunity for an aesthetically pleasing development at this location. I recognise that the proposal would have a visual impact along Ministers Road, Indeed any new development would have a visual impact. However, in my opinion, this could be a positive one. And a contemporary design which would be a welcomed addition at this location subject to the appropriate layout and amenities.

## **13.5 Traffic and Transportation**

- 13.5.1 The application is accompanied by a Traffic and Transport Assessment report and a DMURS and NCM compliance statement.

13.5.2 The treatment of Ministers Road clearly addresses the transition from urban to rural and creates a strong urban edge at this location on a main approach to Lusk town. I note that 14 house (type A) are proposed to have direct access off Minister's Road, house no. 15 is accessed off Road 2 within the scheme. The Council's transportation section have raised no objection on traffic safety grounds to this arrangement. Block 1 (apartments) fronts onto Minsters Road and is accessed off road 6 within the scheme, parking for the apartments is provided off road 6 and is surface parking. A footpath and cycle path run along the southern side of Ministers Road. A cycle path and footpath are proposed along the sites road frontage which addresses a previous reason for refusal for the development of this site under ABP Ref. No. 301001-18. I note that third parties have raised concerns regarding the upgrading of Minister Road, this is beyond the scope of the subject proposal.

13.5.3 There are a number of future links to adjoining lands outlined on the submitted plans and drawings. If the Bord is disposed towards a grant of permission, a condition is recommended to be attached stipulation that the road edge of these proposed linkages extend right up to the site boundary, ensuring the absence of any ransom strips.

13.5.4 Traffic survey were carries out on the 27<sup>th</sup> March 2017 at the time of ABP 301001-18. The TTA has been updated to take account of the revised development. Three junctions were examined. The report concluded that the impact of the development on the surrounding road network would be minimal. The Planning Authority raised no objection to the development from a traffic point of view. The concerns raised related to the over dominance of long linear roads and extent of surface carparking with the scheme, the size of parking spaces, amendments to the crèche set down area, TIC issues

## **13.6 Drainage**

13.6.1 An Engineering Services Report and a Site Specific Flood Risk Assessment have been submitted with the application. In terms of site services, a new water

connection to the public mains and the public sewer are proposed. An Irish Water Pre-Connection Enquiry has been submitted by the applicant. It states that subject to a valid connection agreement being out in place, the proposed connection to Irish Water network can be facilitated. This was reiterated in the Irish submission on this application. Following the ABP Opinion the applicant engaged with Irish Water to discuss requirements for the proposed development. The applicant has confirmed that they are willing to either fund the replacement of pumps in the pumping station at Chapel Farm or carry out the replacing of same, whichever is more referral to Irish Water. The proposals submitted and the details submitted relating to existing capacity of the pumping station do not render the proposed development as being premature as the applicant is willing to undertake/fund the replacement of the pumps, if necessary upon agreement with Irish Water.

13.6.2 Issues raised in the Water Services Planning Section Report relating to surface water can be addressed by condition of the Bord is disposed to grant permission.

13.6.3 The Notice of Pre-Application Consultation Opinion which issued from An Bord Pleanála requested that a Site Specific Flood Risk Assessment Report be submitted with the application. The prospective applicant was advised to consult with the relevant technical section of the planning authority prior to the completion of this report which should describe this consultation and clarify if there are any outstanding matters on which agreement has not been reached with regard to surface water drainage. As is stated above, a Site Specific Flood Risk Assessment has been submitted with the application and the information contained therein appears reasonable and robust. This states that the site is located within Flood Zone C and a Justification Test is not required. The planning authority have not raised concerns in relation to flood risk. I am satisfied in this regard.

## **13.7 Archaeology**

13.7.1 An Archaeological Impact Assessment was submitted with the application, the site was inspected on the 13<sup>th</sup> October 2017 (part of the previous application submitted). The report submitted with the current application is dated 7<sup>th</sup> August 2019. This assessed the archaeological significance of the site and the impact of the development on cultural heritage. Lusk contains the remains of early medieval and prehistoric settlement. The Community Archaeologist reviewed the archaeological impact assessment and concluded that the proposed mitigation measures were adequate to address the archaeological importance of the site. Two areas (yellow and orange) have been identified. The Yellow area will require archaeological monitoring and the Orange will require full archaeological excavation. The most significant features were a prehistoric house, a fulacht fiadh (and features that are likely to relate to it) and a double ditched ring barrow. The proposed mitigation measures include full excavation in areas marked A, B and C (orange) on the submitted archaeology map (zones of high potential) in addition to archaeological monitoring of all works. A Report on the file from the Department of Culture, Heritage and the Gaeltacht has no objection subject to appropriate conditions. On the basis of the foregoing, I consider that the proposed mitigation measures are sufficient to protect any remains that may exist within the site. In the event that the Board is minded to grant permission I would recommend that a condition is attached in relation to the implementation of the mitigation measures outlined in the Archaeological Assessment.

### **13.8 Part V**

13.8.1 It is proposed to provide 36 no. units to meet the requirements of Part V. These consist of 20 apartments in Block 3, 16 no.2 and 3 bed units (House Type G (duplex/apartments)). If the Board is disposed to grant permission a condition should be attached requiring the development to comply with the provisions of section 97 of the Planning and Development Act 2000 as amended.

### **13.9 Appropriate Assessment**

13.9.1 The Board carried out an appropriate assessment screening exercise under ABP Reference No. 301001-18. The Inspector at the time noted that the site is a serviced site on the edge of Lusk and is occupied by amenity grassland, tilled

land, recolonising bare ground, dry meadows, grassy verges, small areas of scrub, hedgerows and drainage ditches. The Screening Report concluded that the biodiversity value of the site is of 'Low Local Importance'. The proposed development will not lead to any reduction or loss of habitat within a Natura 2000 site or habitats related to them. Water will be provided via public supply and wastewater will discharge to the public system. At the time the Inspector also noted that there are limited relevant pathways between the development and the aforementioned sites and concluded that having regard to the nature and scale of the development, its location on serviced lands adjacent to Lusk, its separation from the aforementioned sites and the absence of direct source – pathway – receptor linkages that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on these European sites.

13.9.2 An Appropriate Assessment Screening Report dated July 2019 was submitted with the application. This also incorporated a Report on Biodiversity Issues raised under the 2018 planning application. The site was surveyed in 2017 (Bird Survey), a Bat Survey was carried out in the summer of 2019 and a study of the site for rare plants was also carried out in the summer of 2019. The report on biodiversity is discussed in section 13.8 of this report

13.9.3 The AA Screening Report considers designated Natura 2000 sites within 15km of the proposed development.

13.9.4 The AA Screening Report submitted with the application concluded that there would be no negative impacts on the qualifying interests of any Natura 2000 sites within a 15Km radius of the proposed development. Based upon the information provided and by applying the precautionary principle, it was determined that it was possible to rule out likely significant impacts on any Natura 2000 site and therefore it was not deemed necessary to undertake any further stage of the Appropriate Assessment process.

13.9.5 Designated Sites

A number of designated sites have been identified within 15km of the application site:

- River Nanny Estuary and Shoreline SPA (Site code 004158), c. 14km from the site.
- Rockabill SPA (site code 004014), c. 14km from the site.
- Baldoyle Bay SPA (site code 004016), c. 13km from the site.
- Baldoyle Bay SAC (site code 000199), c. 13 km from the site.
- Lambay Island SPA (site code 004069), c. 10km from the site.
- Lambay Island SAC (site code 000204), c. 10km from the site.
- Skerries Islands SPA (site code 004122), c. 7km from the site.
- Malahide Estuary SPA (site code 004025), c. 6km from the site.
- Malahide Estuary SAC (site code 000205), c. 6km from the site.
- Rogerstown Estuary SPA (site code 004015), c. 3km from the site.
- Rogerstown Estuary SAC (site code 000208), c. 3km from the site.

Of the identified sites the most relevant are Rogerstown Esturay SAC (site code 000208) and Rogerstown Estuary SPA site code 004015 located c.3km from the site. This includes the following habitats: estuaries, dunes, mudflats and salt marshes. It is also a site of international importance for Brent Geese and provides feeding and roosting areas for large populations of geese (Brent and Greylag), wildfowl and waders. It supports two rare plant species (Viola Hirta and Hordeum scalinum). The site is connect to the designated site through a network of fields, hedgerows and drainage ditches.

13.9.6 Having regard to the AA Screening Report and to the Additional Biodiversity studies carried out. I note that the development is not connected to any of the identified designated sites and there are no know indirect connections to these

sites. No mobile fauna species for which the sites are designated are known to use the habitats within the development site. I acknowledge the previous screening exercise carried out by the Board in 2018 and I note the urban location of the site, the lack of direct connections with regard to the source-pathway-receptor model, the intervening distances between the application site and the above designated sites and the nature of the development. I am satisfied on the basis of the information available on file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European Sites in view of the sites conservation objectives and that a stage 2 Appropriate Assessment is therefore not required.

13.9.7 I note Objective LUSK 11 of the current County Development Plan states that one of the parameters in relation to the Minsters Road Masterplan was 'ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council'. I concur with the Planning Authority's conclusion that having regard to the location and nature of the proposed development it is not considered necessary in this instance to restrict development on the basis of/pending the preparation of the Management Plan for the Outer Rogerstown Estuary.

## **13.10 Biodiversity Impact**

13.10.1 As noted above a screening for Appropriate Assessment Screening Report dated July 2019 was submitted with the application. This also incorporated a Report on Biodiversity Issues raised under the 2018 planning application. The site was surveyed in 2017 (Bird Survey), a Bat Survey was carried out in the summer of 2019 and a study of the site for rare plants was also carried out in the summer of 2019.

13.10.2 In 2017 four trees were recorded and assessed in 2017 as potential Bat Roosts. These were re-examined in 2019. The report concluded that there are no buildings or structure within the proposed development area and therefore

no roosting sites were recorded. The four trees identified as Potential Bat Roosts are deemed to be suitable for individual bats. Therefore it was concluded that the proposed development site has little potential to provide roosting sites for bats. Where there was some bat activity for three species of bat with only one encounter for the brown long-eared, overall, the proposed development site was not considered an important area for local bat populations in relation to commuting and foraging individuals.

- 13.10.3 Habitats at the application site are typical of intensively managed farmland in the locality. Survey working 2019 at an appropriate time of the year did not reveal the presence of rare plants associated with this locality. Bat activity was not assessed as significant. Therefore survey work in 2019 confirmed the assessment in 2017 that the biodiversity of the application site is 'Low Local Importance'

## **14.0 Conclusion and Recommendation**

I consider the principle of residential development to be acceptable on this site. The site is a zoned, serviceable site within an established suburban area where a range of services and facilities exist. I have no information before me to believe that the proposal, if permitted, would put undue strain on services and facilities in the area. I am satisfied that the proposal will not impact on the visual or residential amenities of the area, to such an extent as to warrant a reason for refusal.

However, notwithstanding the above I have serious reservations in relation to the proposed development. The overall layout of the scheme is poor, overly dominated by roads and surface car parking and if permitted would not provide the standard of development put forward in various Section 28 Guidelines, in particular the Urban Design Manual and the 12 criteria set out therein. There is an absence of clear character areas for a development of this scale and the location and disposition of the area of open space are poorly conceived and do not offer a high quality environment and amenity areas for future residents.

I recommend that permission be refused.

## **15.0 Reasons and Considerations**

1. The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout; fails to provide high quality usable open spaces; is dominated by road and surface car parking; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants. The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these aforementioned Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

## **16.0 Recommended DRAFT Board Order**

**Planning and Development Acts 2000 to 2019**

**Planning Authority: Fingal 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 17<sup>th</sup> day of October 2019 by Dwyer Nola Developments Ltd care of Delphi Design Ltd, Dublin 3.

**Proposed Development**

Permission for a strategic housing development on lands at Regles, Minister's Road, Lusk, Co. Dublin.

The development will consist of 359 no. dwellings, comprised of 223 no. 2, 3, 4 bed, 2 & 3 storey detached, semi-detached & terraced houses, 52 no. 1, 2 & 3 bed duplex units in 7 no. 2 & 3 storey blocks and 84 no. 1 & 2 bed apartments in 4 no. 4 storey blocks and a 1-2 storey crèche (484.6 m<sup>2</sup>).

Access to the development will be via two no. vehicular access pints from Minister's Road along with the provision of a roadside footpath and cycle path along the front of the site at Minister's Road.

The proposed development includes all associated site development works, piped and wired services, public open spaces, hard and soft landscaping, surface car parking, bicycle parking, bin storage, public lighting, all on a site area of 8.44 hectares.

The application contains a statement setting out how the proposal is consistent with the objectives of the Fingal Development Plan 2017-2023, and also contains a statement indicating why permission should be granted for the proposed development, having regard to the consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

### **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 “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout; fails to provide high quality usable open spaces; is dominated by road and surface car parking; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants. The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these aforementioned Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

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**Dáire McDevitt,  
Planning Inspector  
24<sup>th</sup> January 2020**

## **Appendix 1**

### **List of Submissions:**

1. Lusk United AFC, Rathmore Road, Lusk, Co. Dublin.
2. Martin Cleary, 21 Dun Emer Avenue, Lusk, Co. Dublin.
3. Brian Arnold, Carnegie Library Community Hall, The Green, Lusk, Co. Dublin.
4. Round Towers GAA, Thomas Ashe Park, Hands Lane, Lusk, Co. Dublin.
5. Lusk Community 2020 Sports Plan Committee, Carnegie Library Community Hall, The Green, Lusk, Co. Dublin.
6. Cllr. Robert O'Donoghue, 15 Gleann Ribh, Lusk, Co. Dublin.
7. Karla Piner, Glebe Lodge, minsters Road, Lusk, Co. Dublin.
8. Colm & Renata Moore, 1 Dun Emer Crescent, Lusk, Co. Dublin.
9. William McGee, 59 The Close, Orlynn Park, Lusk, Co. Dublin.

### **Prescribed Bodies:**

10. Irish Water.
11. Inland Fisheries.
12. An Taisce.
13. DAU, Department of Culture, Heritage and the Gaeltacht.