

An
Bord
Pleanála

Board Direction
BD-011937-23
ABP-313223-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/03/2023.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 5th day of April 2022 by Jacko Investments Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin.

Proposed Development comprises of the following:

- (a) Demolition of the existing one to three storey public house, restaurant, off-licence and associated storage buildings (totalling 1,197square metres) and removal of associated surface car park and construction of a residential development of 146 number apartments (69 number one-bedroom, 68 number two-bedroom and nine number three-bedroom) in four number blocks ranging in height from four to six storeys over basement level as follows:
 - Block A containing 15 number apartments (three number one-bedroom, nine number two-bedroom and three number three-bedroom) and measuring four storeys in height;

- Block B containing 41 number apartments (23 number one-bedroom, 17 number two-bedroom and one number three-bedroom) and measuring part five part six storeys in height;
 - Block C containing 54 number apartments (33 number one-bedroom, 16 number two-bedroom and five number three-bedroom) and measuring part five part six storeys in height; and,
 - Block D containing 36 number apartments (10 number one-bedroom and 26 number two-bedroom) and measuring part four part five storeys in height.
- (b) All apartments will have direct access to an area of private amenity space, in the form of a terrace or balcony, and will have shared access to internal communal amenities including a gym (211 square metres), communal store rooms (158 square metres) and a cinema and playroom (89 square metres), 3,551 square metres of external communal amenity space and 2,041 square metres of public open space;
- (c) Provision of 109 number vehicular parking spaces (including five number mobility parking spaces, five number car-share spaces and 11 number electric charging spaces), six number set-down parking spaces and 332 number bicycle parking spaces at basement level accessible via new vehicular access from Church Road;
- (d) Provision of five number commercial units (746 square metres total) located at basement and ground floor level in Blocks A and B; and one number childcare facility (424 square metres) located within the basement level of Block C;
- (e) Removal of existing culverts, installation of new culverts to facilitate pedestrian and vehicular access and diversion of the Glebe Stream on site; and,
- (f) All ancillary works including public realm and footpath improvements, landscaping, boundary treatments, internal footpaths, provision of surface level bicycle parking (56 number spaces), bin storage, foul and surface water drainage, green roofs, Electricity Supply Board substation and all site services, site infrastructure and associated site development works necessary to

facilitate the development all located at the Lord Mayor's Public House, Main Street, Swords, County Dublin.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- The location of the site on lands with zoning objectives for 'Major Town Centre Use' and 'High Amenity';
- the policies and objectives as set out in the Fingal Development Plan 2017-2023;
- the objectives as set out in the Swords Master Plan, 2009;
- the nature, scale and design of the proposed development;
- the planning history of the site;
- the provisions of Project Ireland 2040 National Planning Framework;
- the provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- the provisions of the Climate Action Plan 2023 issued by the Department of the Environment, Climate and Communications issued in December 2022;
- the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- the provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2022;
- the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- the provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- the submissions and observations received;
- the Chief Executive's Report submitted by Fingal County Council; and
- the report of the Planning Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not interfere with protected views, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and would provide for suitable connections to the Ward River Valley Park. The proposed development would not give rise to a risk of flooding upstream or downstream of the site and has mitigated any residual risk on site, in accordance with the justification test as set out in the aforementioned flooding guidelines. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites,

taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening and Natura Impact Statement submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, other than the Malahide Estuary Special Area of Conservation (Site Code: 000205) and Malahide Estuary Special Protection Area (Site Code: 004025) which are European Sites for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Malahide Estuary Special Area of Conservation (Site Code: 000205) and Malahide Estuary Special Protection Area (Site Code: 004025) in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' Conservation Objectives. This

conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment Screening

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned 'MC' and 'HA' in the Fingal Development Plan 2017-2023 with the associated land use objectives to 'protect, provide for and or improve major town centre facilities' and 'to protect and enhance high amenity areas'. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC) and a Strategic Flood Risk Assessment.
- the location of the site within the town centre, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- the guidance as set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- The location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended,
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment,

including measures identified in the Flood Risk Assessment, Appropriate Assessment Screening and Natura impact statement, the Outline Construction Environmental Management Plan, the Preliminary Outline Construction and Demolition Waste Management Plan, the Engineering Services Report, the Arboricultural Report, the Ecological Impact Assessment, the Archaeological Impact Assessment Report and the Architectural Heritage Impact Assessment.

In conclusion, having regard to the mitigation measures proposed in the above reports there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that the proposed development is, broadly compliant with the provisions of the Fingal Development Plan 2017-2023 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective or other objectives of the Fingal County Development Plan 2017-2023.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not interfere with views to be preserved in the development plan, would be acceptable in terms of urban design, impact on archaeology and would be acceptable in terms of traffic and pedestrian safety and flood risk. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Block C shall be reduced in height by the omission of an intermediary floor.
 - (b) The materials in the outward looking façades of Blocks B and C shall be varied so as the façades have vertical emphasis.
 - (c) The two apartment units above the first floor in Block D nearest the southern boundary of the site shall be omitted. The adjoining one-bedroom apartment on both floors may be enlarged to form two-bedroom unit types.
 - (d) The details of the bicycle path adjacent to the Glebe Stream shall comply with the requirements of the planning authority.

Revised plans and particulars demonstrating compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates or security barrier at the entrance to the development or within the development in a manner which would prevent pedestrian access.
- (b) Prior to the occupation of any residential unit, the developer shall ensure that the public realm areas and new pedestrian routes, as outlined in the site layout plan and landscape plans and particulars shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

4. (a) Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority final details of the basement level, the number and location of car parking spaces and bicycle parking spaces within the scheme.
- (b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed with the planning authority prior to the occupation of the development.
- (c) Prior to commencement of construction works, a Swept Path Analysis of the basement car park shall be provided to the planning authority.
- (d) Access routes to the bicycle parking spaces shall be revised and if necessary, a car parking space shall be eliminated to facilitate this. The basement layout shall be agreed with the planning authority, prior to the occupation of the development.

Reason: In the interests of encouraging the use of sustainable modes of transport and residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, as set out on plans and particulars P2.106 to P2.110, save as required for the changes required under Condition Number 2(c) of this permission, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of visual amenity and to ensure an appropriate high standard of development.

6. The following requirements of the Inland Fisheries Ireland shall be adhered to:
 - (a) All works shall be completed in line with the Construction Environmental Management Plan and all recommended measures shall be adopted along with the monitoring programme outlined;
 - (b) There shall be no direct pumping of contaminated water from the works to the watercourse at any time, any dewatering of ground water during excavation works shall be pumped into an attenuation area before being discharged off site.
 - (c) Mitigation measures such as silt traps and oil interceptors shall be regularly maintained during the construction and operational phase. The developer shall enter into an annual maintenance contract in respect of the efficient operation of the petrol or oil interceptor.
 - (d) Inland Fisheries Ireland shall be consulted on the planned realignment of the Glebe Stream. The realignment shall be conducted in the open season, July to September and shall be subject to an agreed method statement with Inland Fisheries Ireland, including surface water outfall details. The method statement will have regard to planning for watercourses in the urban environment, by Inland Fisheries Ireland.

Reason: In the interests of water and fish protection.

7. Prior to commencement of construction, details of all areas of boundary treatment, play equipment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of public communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

8. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

10. Prior to commencement of development the applicant shall agree in writing with the planning authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interests of place making and visual amenity.

11. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

12. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

13. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and or future proof the development such as would facilitate the use of electric vehicles

14. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road to the service area and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of amenity and of traffic and pedestrian safety.

15. A Stage 3 Road Safety Audit shall be agreed with the planning authority before the operation of the proposed development commences.

Reason: In the interest of traffic safety.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

17. Proposals for an apartment naming or numbering scheme, commercial unit identification and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

18. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

19. Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

20. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of public health and surface water management.

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

22. (a) Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.
- (b) No clearance of vegetation from the site shall be carried out during minimum bird breeding season of March to August.

Reason: In the interests of sustainable waste management and biodiversity.

23. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction or demolition waste.

Reason: In the interests of public safety and residential amenity.

24. A Construction Traffic Management Plan for the proposed development shall be agreed in writing before the commencement of enabling works.

Reason: In the interest of traffic safety.

25. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

26. The development shall be operated so that there will be no emissions of malodours, noise, vibration or other deleterious materials, so as to give rise to a reasonable cause of annoyance.

Reason: in the interest of public health.

27. The proposed development shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within Dublin Airport Noise Zone D.

Reason: In the interest of residential amenities.

28. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or installation of lighting. This lighting scheme shall be consistent with the need to consider the lighting regime suitable for bats and shall be accompanied by a letter from a qualified consultant in relation to bats, certifying that the lighting is compatible. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity, public safety and the ecology of the Ward River.

29. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation including hydrological and geotechnical investigations relating to the proposed development,
 - (b) submit to and agree in writing with the planning authority revised proposals for the design of the proposed development, which shall ensure that the development will not cause avoidable disturbance to archaeological material and will limit any unavoidable disturbance,
 - (c) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (d) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 31. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute other than a matter to which section 96(7) applies may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 32. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to

included an assessment of the daylight to the existing buildings using the vertical sky component (VSC) method in accordance with the **BRE guide 'Site Layout Planning for Daylight and Sunlight'** (2nd edition) and **BS 8206-2: 2008** – 'Lighting for Buildings – Part 2: Code of practice for daylighting' to determine any impact to existing daylight received to the existing buildings proximate to the site. The Board was satisfied that the points tested by the applicant were representative of the windows with potential to endure a negative impact to existing daylight received arising from the proposed development. The board noted the findings that when compared to the existing situation of all 142 no. points tested, 100% of the points would have a VSC value greater than 27% or not less than 0.8 times their former value. Accordingly, the Board agreed with the applicant's conclusion reached that the proposed development would result in a negligible impact when compared to the existing situation and complies with the applicable standards and guidance. Furthermore the Board took into account the rationale for the proposed redesigned location of these Blocks B and C such as to facilitate the widening of the walkway/cycle link connecting Mainstreet to River Valley Park to the north of the site in order to enhance the view corridor to the park and noted and agreed with the inspector's assessment otherwise that the central walkway through the park is more generous and inviting than a previous design iteration that formed part of a previous refusal on the site. For these reasons the Board was satisfied with the overall layout including the positioning of Building Blocks B and C and therefore considered that it was not necessary to attach recommended condition 2(a).

2. The Board also noted recommended condition no. 32 put forward by the inspector. Having regard to the generous setback along Church road and that a new footpath external to the development is proposed to be constructed on the western side of Church Road as part of improvement of access to Swords Village along Church Road, and the overall permeability proposed through the site that includes a river walk, the Board did not agree that this condition requiring upgrade works to Church road is reasonable or a necessary part of the development and would require works that would partially lie on lands outside of the control of the applicant. The Board noted that future widening and improvement works along Church Road, that are proposed by the Local

apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

33. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

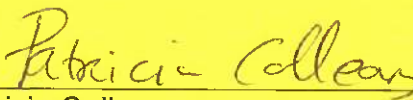
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Notes:

1. The Board noted the inspector's recommended condition 2(a) seeking that Blocks B and C be repositioned as per the landscape concept design (Page 8 of the landscape design report). In considering this recommended condition and the reason thereof, the board noted the positioning and separation distances of those blocks from neighbouring properties and the contents of the applicant's daylight, sunlight and overshadowing study. This study

Authority, would not be impeded as a result of the proposed development. Accordingly, the Board did not attach this recommended condition. Furthermore, the Board did not consider it would be correct to attach a special contribution condition under Section 48(2)(c) of the Planning and Development Act 2000, as amended, as an alternative to the recommended condition omitted (and as set out in the Report of the Chief Executive) having regard to the wording and spirit of this section of the Act whereby special contributions are only applicable where 'specific exceptional costs not recovered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development'. The Board were satisfied that the applicable circumstances do not arise in this instance.

Board Member



Patricia Calleary

Date: 22/03/2023

