



An  
Bord  
Pleanála

**Board Order**  
**ABP-315602-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F22A/0608**

**Appeal** by Brookclam Land Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 14<sup>th</sup> day of December, 2022 by Fingal County Council to refuse permission for the proposed development.

**Proposed Development:** A mixed-use development that will consist of the demolition of the existing Swords Day Centre for Senior Citizens and the development of a mixed-use scheme of 121 number residential units, four number retail units, a Senior Citizens Centre and a commercial car park in a building up to eight number storeys above basement on a site of circa 0.56 hectares. The development will consist of: demolition of existing Swords Day Centre for Senior Citizens (399 square metres), existing ESB substation (34.5 square metres) and removal of existing surface car parking; construction of a part two number; part eight number storey mixed-use building in two eight number storey blocks above basement to include 121 number apartments consisting of 56 number one-bedroom apartments, two number two-bedroom (three person) apartments, 52 number two-bedroom apartments and 11 number three-bedroom apartments; provision of setbacks at second floor level on the south and east elevation, and at seventh floor level on the southern

elevation; provision of four number retail units at ground and first floor level (circa 255.3 square metres); provision of a new two-storey Senior Citizen Centre of circa 807 square metres; provision of a commercial car parking at basement and ground floor levels comprising 162 number spaces; provision of 11 number car parking spaces to serve the Senior Citizen's Centre and 59 number car parking spaces for the residential development at first floor level; provision of 238 number residential bicycle parking spaces (41 number visitor spaces and 197 number residential) as well as 15 number additional bike stands along Forster Way; provision of circa 478 square metres of communal open space at second floor level and circa 1,074 square metres at roof level (527 square metres and 547 square metres); apartment units will include balconies on the north, south, east and west facing elevations; provision of three number vehicular access/egress points along Forster Way; provision of one number double substation, plant and switch rooms at basement, ground and first floor level; provision of photovoltaic array and AOV at roof level; all associated site development and landscaping/public realm works as well as revision to vehicle circulation necessary to facilitate the development. The proposal includes associated siting, boundary changes, boundary treatment and infrastructural works and site lighting within the area of the proposed development, all at site at the junction of Forster Way and Chapel Lane, including the Swords Day Centre, 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

Having regard to the provisions of the Fingal Development Plan 2023-2029, as varied, and the location of the proposed development on zoned and serviced lands within Swords town centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would make efficient use of an underutilised brownfield site and positively contribute to compact growth in a built-up, mixed-use urban area, would positively contribute to an increase in housing stock in this town centre location with a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities, or significantly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In arriving at its decision, the Board took into account the planning history, including F08A/0884 and F08A/0884/E1 that permitted a six-storey scale development.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 19<sup>th</sup> day of January, 2023, 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 and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
- (a) The sixth and seventh floors as indicated in the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall be removed.
  - (b) The two number one-bed west facing apartments on the second floor (Units 2-14 and Unit 2-15) and the two number one-bed west facing apartments on the fourth floor (Units 4-14 and 4-15) shown on the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall be provided with recessed balconies.
  - (c) An area of landscaped public open space shall be provided at ground floor level and fronting onto Forster Way.

For clarity, the residential element of this permission shall relate to 79 apartment units only.

Revised drawings at appropriate scales showing compliance with these 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) The sides of the balconies serving Unit 3-08, Unit 4-08, Unit 5-08 as indicated in the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall be fitted with screens with a minimum height of 1.8 metres.
- (b) The sides of the balconies serving Unit 3-14, 4-26 and 5-14 as indicated in the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall be fitted with screens with a minimum height of 1.8 metres.
- (c) The eastern side of the recessed balconies serving Unit 3-07, 4-07 and 5-07 as indicated in the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall each be fitted with a screen with a minimum height of 1.8 metres.

- (d) The eastern side of the recessed balconies serving Unit 3-15, 4-27 and 5-15 as indicated in the plans and particulars received by the planning authority on the 28<sup>th</sup> day of October, 2022 shall each be fitted with a screen with a minimum height of 1.8 metres.
- (e) The eastern side of the roof terraces on both the northern and southern block shall be provided with screens of 1.8 metres height.

Revised drawings at appropriate scales showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To mitigate excessive overlooking impacts onto 6-10 Oaklands Park.

- 4. No development shall commence until details relating to the proposed works at the Chapel Lane junction, including the reconfiguration of existing car parking spaces and drainage connections, in addition to the details of the one-way/two-way interface at the southern boundary are submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of clarity.

- 5. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The proposed senior citizens centre shall be in the first phase of development unless otherwise agreed in writing with the planning authority.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed apartments and users of existing amenities.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) 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.

7. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. 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 authorised by a further grant of planning permission.

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

9. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of each relevant unit.

**Reason:** In the interest of visual amenity.

10. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

11. 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 interest of visual amenity.

12. The internal road network serving the proposed development, including loading bays, junctions, parking areas, footpaths and kerbs, and access road to the underground car park shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.

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

13. Provision shall be made for a contraflow cycle lane along the extent of the one-way section of Forster Way in accordance with the requirements of Design Manual for Urban Roads and Streets and the Cycle Design Manual. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

14. (a) The maximum number of car parking spaces serving the proposed residential development shall be 43 in number, exclusive of car club spaces. The maximum number of car parking spaces serving the proposed senior citizens centre shall be eight in number. The minimum number of motorcycle spaces serving the proposed residential development shall be four in number. The location and layout of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.
- (b) Residential car and motorcycle parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.
- (c) A minimum of 20% of all residential 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 to, and agreed in writing with the planning authority prior to the occupation of the development.
- (d) The bicycle parking quantity shall be provided as per the bicycle parking standards of the Fingal Development Plan 2023-2029. Resident cycle parking spaces shall be secure, conveniently located, sheltered, and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be *in situ* prior to the occupation of the development.

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- (e) 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. The plan shall include measures to ensure that the public parking spaces shall not be sold, rented, or otherwise sub-let or leased to other parties.

**Reason:** In the interest of sustainable transportation.

15. The development shall be carried out and operated in accordance with the provisions of a revised Mobility Management Plan (MMP) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The Mobility Management Plan shall include specific objectives and measures to achieve modal split targets for the development which shall be implemented in full upon first occupation. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following first occupation and shall submit the results to the planning authority for consideration and placement on the public file.

**Reason:** To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

16. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The Traffic Management Plan shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed Traffic Management Plan shall be implemented in full during the course of construction of the development.

**Reason:** In the interests of sustainable transport and safety.

17. 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. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

18. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interest of sustainable urban drainage.

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

**Reason:** In the interest of public health.

20. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating, and

- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

- 21. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

- 22. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity and to ensure the provision of adequate refuse storage.

23. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

24. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate the mitigation measures outlined in the submitted Ecological Impact Assessment and provide details of intended construction practice for the development, including:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,
  - (d) details of on-site car parking facilities for site workers during the course of construction,
  - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,

- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains in accordance with the requirements of CIRIA C532, control of water pollution from construction sites and CIRIA C649, control of water pollution from linear construction projects.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of amenities, public health and safety.

25. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays.

Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

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

26. Building noise insulation shall be provided to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone D.

**Reason:** In the interest of residential amenity and to ensure compliance with Objective DMSO105 of the Fingal Development Plan 2023-2029.

27. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details of any crane operations and ensure they do not impact on flight procedures and air safety. The developer shall also notify the Irish Aviation Authority and Dublin Airport Authority of the intention to commence crane operations with a minimum of 30 days' notice of their erection.

**Reason:** In the interests of residential amenity and aircraft safety.

28. Prior to commencement of development, the applicant 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.

29. 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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

30. 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.

31. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the continued upgrade of local Class 1 open space facilities in the Ward River Regional Park as set out in the Fingal Development Contribution Scheme 2021-2025, or any subsequent scheme, which benefits the proposed development, in lieu of a shortfall in public open space and play facilities. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** To ensure compliance with objective DMSO53 of the Fingal Development Plan 2023-2029 and to contribute towards specific exceptional costs incurred by the planning authority which is reasonable in this regard.



**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 16 day of July 2024.