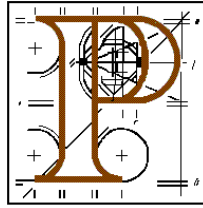


## An Bord Pleanála



### Inspector's Report

**Reference:** PL06S.245215

**P.A. Reference:** SD15A/0028

**Title:** Demolition of gate lodge, construction of 74 no. residential units and all associated site works.

**Location:** Lock Road/Link Road, Finnstown, Lucan, Co. Dublin.

**Applicant:** Crekav Landbank Investments Limited

**Appellants:** F. Fitzgerald TD & Cllr. W. Lavelle  
Residents of Finnstown/Priory Cloisters  
Crekav Landbank Investments Limited.

**Observers:** The Finnstown Input Group

**PA:** South Dublin County Council

**Type of Appeal:** Third party against grant and first party against decision

**Decision:** Split decision

**Date of Site Visit:** 4<sup>th</sup> November 2015

**Inspector:** Philip Davis

## 1. Introduction

This appeal is by local elected representatives and a local residents association to grant partial permission for a housing scheme of 74 units (58 permitted) close to Adamstown in Lucan, South County Dublin. The grounds of appeal relate to design issues, amenity, and road traffic concerns. In addition, the applicant has appealed a number of conditions and the refusal of remaining elements of the houses. The planning authority quotes a material contravention of two Development Plan policies in one of its reasons for refusal.

## 2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

### **Finnstown, Lucan, County Dublin**

Finnstown is a recently developed suburban area south of Lucan and just north of the Dublin Connolly to Sligo railway line. It is north and east of the new suburb of Adamstown and the associated STZ area. It is intersected by the R120 Lock Road, which runs directly south from Lucan, crossing the M/N4 at a major junction, eventually leading to Newcastle after crossing over the railway and Royal Canal at a large bridge just south of Finnstown. The R120 at this point is a relatively wide single lane road with footpaths on either side. The south of Finnstown is bounded by the railway and an urban link road running north of and parallel to the railway (this connects the R120 to the R136 Outer Ring Road). There is a suburban railway station at Adamstown. The eastern side of Finnstown is marked by a linear urban park following the Griffeen River, a tributary of the Liffey, with the suburban developments of Esker on either side. To the north are further suburbs between Finnstown and Lucan town centre – there is a mid-sized shopping mall (Lucan Shopping Centre) and national school just to the north. Finnstown has a neighbourhood shopping centre on the eastern side of Lock Road consisting of a large pub (the Lord Lucan) and some smaller shops. There are further local neighbourhood shops in Adamstown, a short walk from most of Finnstown. The western side of Finnstown is largely undeveloped, part of the extensive grounds of the Finnstown Castle Hotel. Further west is open agricultural countryside.

### **The site and environs**

The appeal site, with a site area given as 2.47 hectares, is a flat area of land on the eastern side of Lock Road, some 500 metres north of where Lock Road crosses the railway line and 1 km south of the junction with the N4 at Lucan. The site is rectangular in shape, and bounded with a mix of low wall with railing, block wall, and palisade fencing. The site is heavily overgrown, with a number of mature trees indicating it was once landscaped. There is a derelict small gatehouse

at the north-western corner of the site, next to a blocked up gated access. There are a series of large mounds of construction and demolition waste on the eastern side of the site. Older OS plans indicate the land was the grounds of a large house, alternately called Finnstown Lodge or Finnstown Cottage, located near the eastern side of the site (the NIAH refers to the buildings as Coolamber House and Lodge). The main house is now demolished, but aerial photographs reveal it and the grounds were intact in 2005.

**North** of the site is a neighbourhood shopping centre, consisting of a terrace of 2 storey commercial buildings with the Lord Lucan pub at the centre, and a number of smaller shops and takeaway outlets on either side – there is extensive parking to the front of this centre. A cul-de-sac of houses east (behind) this neighbourhood centre also abuts the site.

**East** and **south** of the site are relatively modern (10-25 year old) suburban estates.

**West** of the site is the R120, at this point a relatively wide single lane urban link road. There are bus stops immediately adjoining the site and a pedestrian crossing just to the south. Opposite the site is the main entrance to the Finnstown Castle Hotel, and a footpath/cycling access to the Adamstown estate leading to the railway station – beyond the estate is an extensive area of development lands, part of the Adamstown STZ.

The site adjoins a Dublin Bus stop with a connection to Dublin (route 25b) and is approximately 1.1 km by foot from Adamstown railway station. It adjoins a neighbourhood shopping area and is less than 1 km from Lucan Shopping Centre, Esker National School and two community colleges.

### 3. **Proposal**

The proposed development is described on the site notice as follows:

*...the demolition of the existing single storey 'gate lodge' dwelling and the provision of 74 no. 2.5 storey residential units consisting of 6 no. detached 4 bedroom units, 10 no. terraced 4 bedroom units and 58 no. semi-detached 4 bedroom units, along with, landscaping, boundary treatments internal roads and footpaths and all associated engineering and site development works necessary to facilitate the development. Vehicular and pedestrian access to the application site is to be from a new access from the adjoining Lock Road/Newcastle Road (R120) to the west...*

#### 4. **Technical Reports and other planning file correspondence**

##### Planning application

The planning application, with plans and supporting documentation (Planning Statement, AA screening report, Arborist Report and a bat survey) was submitted to the planning authority on the 6<sup>th</sup> February 2015.

Following a Further Information Request, the applicant submitted revised plans along with a response letter and a number of additional reports, including a Tree Protection Strategy and a Bat Activity Survey on the 4<sup>th</sup> June 2015. Further revised plans were submitted to the Board with the appeal on the 28<sup>th</sup> July 2015.

##### External correspondence

There are a number of objections and requests for clarifications from local residents, local elected representatives, and business interests (including Finnstown Castle Hotel) on the original planning file. They raise a number of issues relating to amenity, design, traffic and wildlife.

**Irish Water:** No objection subject to conditions relating to foul drainage.

##### Internal reports and correspondence.

**Housing Procurement Section:** Recommends a Part V condition.

**Environment, Water and Climate Change Section:** Notes a large volume of construction and demolition waste on the site. Recommends conditions relating to this waste. Following the submission of further information, a recommendation for conditions is restated.

**Environmental Health:** The proposed development is considered acceptable subject to a number of standard conditions.

**Water Services:** No objection subject to a number of standard conditions. Following the submission of further information, a single condition relating to flood levels was recommended.

**Parks and Landscapes.** Refusal recommended. Detailed concerns set out about the design of open space, the urban design principles (in particular relating to existing trees), and the landscape plans. Following the submission of further information it is stated that the revised plans are much improved, but notes a number of concerns and recommends a number of detailed conditions.

**Roads Department:** Notes that the development plan requires 1-2 parking spaces per dwelling, 2 is provided. Notes no TIA, and a number of other details are queried. Further information requested.

Following the submission of further information it states that the revised details are acceptable, but raises a number of questions about proposed consultations with residents about links with adjoining estates, and recommends a number of conditions.

**Planning report:** In the first planning report dated 31<sup>st</sup> March 2015 sets out detailed concerns about the layout and design and 10 no. additional items of information are requested. Following the submission of further information a split decision is requested, granting 58 units (1-44 and 54-63) subject to detailed conditions relating to revisions in line with DMURS (condition 3) 18 other conditions. The reason for the refusal element relates to draft TPO's on the site.

## 5. Decision

The planning authority decided, in a split decision, to grant permission for a total of 58 units (Units 1-44 and 54-63) subject to 19 largely standard conditions. Condition 3 set that the carparking layouts are revised and redesigned in line with a number of criteria, including the requirements of DMURS. Condition 10 sets out that provision shall be made for open space integrated into one single larger area of open space with the adjoining open space to the east.

Houses 45-53 and 64-70 are refused for three stated reasons, all relating to the cutting down of trees identified in the draft Tree Preservation Order TPO/0005 and the material contravention of related policies in the Development Plan.

## 6. Planning Context

### Planning permissions – appeal site

In 2009, the planning authority refused permission for an advertising sign on the site boundary (**SD09A/0324**).

In 2008 the Board, on appeal, upheld the decision of the planning authority (**SD08A/0014**) to grant permission for the demolition of the existing house on site (**PL06S.228548**), subject to one condition relating to a bat survey.

In 2008 the Board, on appeal, upheld the decision of the planning authority (**SD07A/0221**) to grant permission for a 76 unit residential estate (**PL06S.227208**) subject to a number of conditions, including the deletion of 2 dwellings.

A number of trees on the site are subject to a draft Tree Preservation Order (Planning Register Number **TPO/0005**). This TPO was confirmed (against the advice of Council officers) at an Area Committee meeting dated the 23<sup>rd</sup> June 2015.

### Planning permissions – adjoining areas

The site is in close proximity to the Adamstown STZ and I consider many of the provisions with regard to zoning and density are relevant, especially the proposed alterations and amendments to the STZ in 2004 (**PL06.ZF2002**).

### Development Plan

The appeal site is zoned residential in the South County Dublin Development Plan 2010-2016. Detailed policies within the development plan apply to amenity, design and traffic issues.

Relevant extracts from the Development Plan are attached in the appendix to this report.

## **7. Grounds of Appeal**

### Frances Fitzgerald TD & Cllr. William Lavelle

- It is claimed that there was insufficient notification and consultation with local residents about the changes to the proposed development in the revised submission – specific issues highlighted are the alteration to the main vehicular entrance, the relocation of the public space, and internal alterations with relevance to local residents. It is submitted that these alterations should have been re-notified.
- It is questioned whether the ‘permeability’, especially with regard to pedestrian through the site required by the planning authority, is necessary and appropriate.
- It is suggested that the deletion of a number of dwellings by the refusal will reduce passive overlooking and so have an impact on residential amenity.
- The Board is requested to note that previous proposals by the Council for the opening up of existing boundaries to estates in Lucan have been done under procedures under Part VIII – it is submitted that the planning authority has not followed this precedent.
- The Board is requested to delete condition no. 10 regarding the integration of open spaces and the provision of physical permeability.
- It is argued that moving the access to the site to the south is a substantive and material change, in particular as it is opposite the entrance to Finnstown Castle Hotel. It is argued that this results in an excessive number of junctions in the area, and it is submitted that the TIA submitted does not adequately address the impacts, especially with regard to NRA guidelines on TIA.

- The draft TPO is welcomed, and the Board is requested to uphold the TPO.
- The Board is requested to refuse permission on the grounds that the planning authority's failure to classify the revised plans as 'significant' is contrary to Ministerial Guidelines, and that the TIA is inadequate and contrary to NRA Guidelines. If the Board is minded to grant, it is requested that condition 10 not be repeated.

Residents of Finnstown Priory/Cloisters

- It is argued in some detail that the failure to re-advertise the response to FI is contrary to S.35 of the 2001 Regulations and the Development Management Guidelines.
- It is submitted that the applicant's interpretation of increased 'permeability' as requested by the planning authority is flawed and not supported by the definition within the Development Plan. It is argued that the design would make the development unsafe due to a lack of informal supervision – it is also argued that the planning authority did not consult adequately with local residents on this issue.
- It is argued that the removal of the hedgerow boundary between the existing and proposed estates would significantly diminish the amenity value and safety of the existing open space.
- It is argued that the existing estate has a high degree of permeability and the additional links proposed offer no additional value.
- It is submitted that removing the hedgerow boundary will encourage anti-social behaviour.
- It is argued that the level of habitat survey and information submitted by the applicant is inadequate and the proposed development would be a threat to local biodiversity.
- It is submitted that the loss of the hedgerow border would diminish local property values.
- It is submitted that the removal of the hedgerow represents a threat to young children.
- It is argued that there has been an inadequate assessment of traffic impacts.

Crekav Landbank Investment Ltd (first party)

*Refusal element:*

- In some detail, the background to the development is outlined, and it is noted that Dublin is facing a shortfall of dwelling units.
- It is argued that the deletion of 16 no. units is overly cautious and that the TPO could be implemented without requiring the omission of so many units. A revised layout (received by the Board on the

28<sup>th</sup> July 2015) is submitted to this end – this layout allows for 69 dwelling units without removing the TPO trees.

- It is submitted that many of the trees in the draft TPO are in a poor condition and do not justify the protection.

### Conditions

- It is requested that condition 2 and 3(c) be changed to allow for the additional dwellings, as requested above.
- Requests alterations and deletions to conditions 6(d), 6(e), 8(b) 8(c), 12, and 13, as it is argued that they replicate each other and are contrary to the guidance in the Development Management Guidelines.
- Condition 3(a) (car parking). It is argued that all the houses have sufficient curtilage parking – a separate report is submitted arguing that communal parking is not appropriate for this scheme.
- Condition 6(a)(iv) and (v): It is argued that this condition is not consistent with DMURS – those road with road widths less than 5 metres serve just two dwellings.
- Condition 8(c)(i): It is argued that as a result of the condition relating to TPO's, additional open space is not needed.
- Condition 8(c)(ii): It is noted that trees are proposed under the revised site layout plan, so it is argued that this condition is not necessary.
- Condition 8(c)(iii): It is submitted that in the light of the proposed revisions, this condition is unnecessary.
- Condition 8(c)(iv): It is argued that this condition is unclear.
- Condition 8(c)(v): It is argued that it is more appropriate to replace this hedgerow with more appropriate planting – it is argued that it would constrain the contractors on site in an inappropriate manner.
- Condition 9: It is argued that the wording is ambiguous with regard to the protection of trees on the site.
- Condition 11: It is argued that it is unenforceable.
- Condition 15: It is argued that a new bat survey on site is not necessary as there have already been sufficient surveys carried out.

## **8. Observation**

### Finnstown Input Group

- It is argued that a 'split decision' is ultra vires and that the Board is similarly restricted by law from issuing such a decision.



- It is argued that as a TPO has been made on the site, it is not possible for the Board to grant a permission which contravenes this – i.e. the Board can only refuse permission.
- It is argued that there was a lack of public consultation on the revised submission, and the design that would arise from the conditions set by the planning authority.
- It is argued that there are many deficiencies in the permission, relating to access, traffic, open space design, surface water drainage, bat surveys, etc.

## 9. Planning Authority's Comments (two letters)

### Third party appeals

- It is argued that the changes to the proposed development at further information stage were not thought to be inconsistent with that originally proposed.
- It is noted that it is policy (SCR39) to encourage a linked network of open space. It is considered important to create pedestrian/cycling links between open spaces, including the grounds of Finntown Hotel. The Board is requested to retain condition 10 in order to integrate the adjoining areas of open space.
- With regard to traffic impacts, it is considered that flows are within the guidance levels in the TTA Guidelines.
- It is submitted that the design of the properties is consistent with the protection of residential amenities.
- An AA screening was carried out, and the planning authority is satisfied that there would be no significant negative impact on biodiversity.

### First party appeal

- It is argued that Condition 10 should be retained in order to retain permeability and a legible link.
- The requirement for a proportion of on-street parking is in response to Section 4.4.9 of DMURS.
- It is disputed (referring to the applicants attached traffic report) that there is no need for traffic calming, and it is submitted that footpaths are necessary because of the crossing movement of vehicles leaving curtilage parking spaces. It is also stated that visitor parking is considered necessary.
- It is argued that the revised layout submitted by the applicant will result in damage to some of the trees with TPO's, and as such is not acceptable.

- It is submitted that it is unacceptable to remove the hedgerow and replace it with a wall and railing as submitted by the applicant – it is important to maintain the integrity of the open space network.

## 10. Other correspondence

### Frances Fitzgerald TD & Cllr. William Lavelle

- It is denied that the appeal attempts to ‘micromanage’ local authorities – it is submitted that the concerns expressed are aimed at the general practice of the local authority with regard to notifying redesigned proposed developments.
- Their comments on permeability in the original appeal are restated.
- It is noted that there was no transport and traffic assessment of the proposal with the original application, and it is restated that it is considered that the information submitted is not consistent with NRA guidelines on TTA’s.

### Finnstown Cloisters/Priory Residents Association

Their opposition to the proposed development is restated, and arguments that the proposed development, including the layout which would result from the permission as granted by the planning authority, would significantly impact on the residential amenities and property values of adjoining properties.

### Crekav Landbank Investment Limited

- The applicants state that they will accept the ruling of ABP on the matter of connectivity with adjoining estates.
- It is noted that a TIA was submitted and accepted by the planning authority.
- It is noted that the TPO applies to the site, and that a revised submission attempts to address this.
- It is argued that removing the hedgerow will ‘open up’ the open space and improve residential amenity.
- It is noted with regard to ecological impact that two separate bat surveys were made, and that no bat roosts were recorded.
- It is noted that the site is zoned residential and it is argued that a well-designed scheme will significantly improve local amenities and property values.

## 11. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Legal and administrative issues**
  - Notification of FI*
  - Status of TPO*
  - Legality of 'split' decision*
  - Appeal on conditions*
- **Principle of development (local and national policy)**
- **Overall context and design**
- **Transport, connectivity, DMURS**
- **Traffic and access**
- **Open space/trees**
- **Residential amenity**
- **Flooding**
- **Heritage**
- **Appropriate Assessment and EIA**
- **Other issues**

### **Legal and administrative issues**

#### *Notification of further information*

The appellants to the appeal have raised concerns about the failure of the planning authority to advertise the alterations to the proposed design and layout following the submission of further information. It is argued that there are significant issues of concern to local residents in the redesign which should have been open to further comment and observations and the Board has been requested to make a ruling on this matter.

The provisions for the advertising of submissions on 'further information' are set out in Article 35 of the Planning Regulations, which states that if the submissions '*contain significant additional data*', then those who made submissions or observations must be informed about the details. Advice on Article 35 is contained in section 5.9 of the Development Management Guidelines 2007. This states that:

*The question of 'significant additional data' can only be determined by the planning authority on an individual basis in each case using professional judgement and having regard to the particular circumstances, but the impact on the environment and / or the effects on third parties will always be material considerations.'*

In this application, the planning authority made the judgement that the additional information, including a redesign of the layout, did not constitute 'significant additional data'. An Bord Pleanála of course does not have a statutory function with regard to instructing or altering

the decisions in such matters of local authorities, even if the decision to do so – as it would appear to me in this case – seems to have had more to do with expediting the decision on a strict timetable rather than making a full assessment of the impacts of the alterations and additional information. In any event, the application is being considered *de novo* in this appeal so I do not consider that any third parties have been excluded from being able to comment fully on the proposals. The detailed submissions on file by local residents and their representatives set out very clearly their views on the proposed development, and I will have full regard to these in my assessment below, and in my recommendations.

### Status of TPO

There is some confusion from the information on file as to the precise standing of the Tree Preservation Order referred to in the planning authority decision, which led to the decision to delete a number of proposed dwellings, the subject of part of the first party appeal. This TPO is described as a 'draft' in the notice. It does appear, from the information submitted subsequently, that this 'draft' TPO was in fact confirmed by a vote of the Area Committee in June of 2015. This vote was made against the recommendation of Council officers.

The Board will be aware that the statutory provision for Tree Preservation Orders is out in Section 205 of the 2000 Act, as amended. There is no provision within the Act for such an order to be appealed, and my understanding of the interpretation of the Act is that a decision made by the Board for a development which would require the clearance of trees subject to an order would not over-rule that TPO. In other words, subsection 34(13) of the Act applies, in that the applicant/landowner would not be permitted to remove the trees, even with the benefit of planning permission. This does not however preclude the Board from granting planning permission for dwellings which would require the removal of these trees. I would note that under the Fourth Schedule of the Act it would seem that a refusal based solely for this reason would appear **not** to be a non-compensational reason for refusal – although a condition restricting development for that reason is non-compensational (Fifth Schedule, paragraph 20).

### Legality of 'split decision'

One appellant raised the question of the legality of the 'split decision' issued by the planning authority. I would note that such split decisions are commonly made by planning authorities and by the Board and are consistent with the provisions of the 2000 Act, as amended, and related departmental advice and circulars.

### Appeal on conditions

The applicant has appealed many of the conditions set by the planning authority. As the application (including any conditions to be set) is to

be assessed and decided 'de novo' on the basis of the third party appeals I will not address each condition in detail. I have read all the submissions and arguments with regard to these conditions and I will address them in the context of my overall assessment below.

### **Principle of development (local and national policy)**

The appeal site is zoned residential – it appears to be the last zoned site of significant size in this area outside of the Adamstown STZ – an area which has rapidly become urbanised in the past 30 years, with the provision of significant public facilities, most notably railway stations and new roads. The area varies in density and layout from the modern high density of Adamstown to more typical outer suburban densities to the east and north, although these developments seem to predate the nearby railway station. In such areas, policy H1 of the Development Plan outlines a general policy objective to encourage higher residential densities, followed by a number of policies relating to specific types of area. In this regard, policy objective H4 states that:

*It is the policy of the Council to maximise public transport investment and promote sustainable settlement patterns. Walking distances from public transport nodes will be used to define public transport corridors. Increased densities will be promoted within 500m walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport will be taken into account. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, will be applied to public transport corridors, with the highest densities located at rail stations/bus stops, and decreasing with distance from such nodes. Development at such locations will be subject to safeguards outlined in Sustainable Neighbourhoods in Section 1.4 or being in accordance with Local Area Plans or Approved Plans.*

In its report, the Council quotes as the relevant policy objective, Policy H8, which states:

*It is the policy of the Council to ensure the greatest efficiency of land usage on such lands through the provision of net residential densities in the general range of 35-50 dwellings per hectare, involving a range of housing types where possible. Development at net densities less than 30 dwellings per hectare will generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. Development in Outer Suburban/ 'Greenfield' sites will be subject to safeguards outlined in Sustainable Neighbourhoods in Section 1.4 or being in accordance with Local Area Plans or Approved Plans.*

Both these policies follow the recommendations for density as set out in the 2009 Guidelines 'Sustainable Residential Development in Urban Areas'. However, by the definitions set out in both the Development

Plan and the 2009 Guidelines – 500 metres from a bus stop and/or 1 km walk from a railway station – the site should clearly be considered to be on a public transport corridor. There are bus stops directly adjoining the site (stop 7143, Route 25B: Merrion Square to Adamstown Station), and Adamstown Irish Rail Station is just over 1 km walking distance from the site (I estimate it to be 1.1 km). The planning authority gives no explanation as to why they have chosen to apply H8 rather than H4, as the latter is clearly the relevant policy objective in both local and national policy.

The site had planning permission granted for 76 dwellings in 2008, upheld on appeal by the Board on appeal (**PL06S.227208**). This predates the 2009 Guidelines and the current Development Plan, although it was after the opening of Adamstown Railway Station (April 2007). I note that in 2014 the Board did **not** permit a significant reduction in density levels as sought by the Council in the nearby Adamstown STZ (**06.ZF.2002**) – those densities are well in excess of those in this appeal. I particularly note the comments made in page 6 of that Board Direction with regard to current market conditions and the proposed reduction in density sought by the Council.

I would therefore conclude that the use of the site for residential development is in accordance with the zoning objective of the site, but subject to a density requirement of a minimum of 50 dwelling units per hectare, and in accordance with the detailed design and amenity standards as set out in the development plan (section 1.4), the 2009 Sustainable Residential Guidelines, DMURS and other related national and regional guidance.

The methodology for calculating density is set out in Appendix A of the 2009 Guidelines. I note that none of the significant uses to be excluded from the calculation (i.e. distributor roads, schools, shops, landscape buffers, etc.) would in my opinion apply, so I could consider a gross density calculation for the entire site to be appropriate. The original proposed development was for 74 units, which I calculate as a density of just under 30 per hectare (not 33, as stated in the planning report). The 54 units granted equates to 24 units per hectare. The 69 units requested by the applicant in his appeal is 28 units per hectare. All these figures are far below the ‘minimum’ of 50 units set out in Policy H4 and the related 2009 Guidelines, and very far below the overall density targets in the nearby STZ. I can see no justification set out in any of the documents that would permit such a significant departure from the policy objectives set out in the development plan and in national statutory guidance. I do not consider that it would be possible to effectively double the density by condition. I therefore conclude in this regard that the proposed development is contrary to the policy objectives set out in the development plan, and contrary to national policy, and should be refused for this reason.

## **Overall Context, Connectivity, Design**

As I have noted above, the proposed design represents a style and density of development which is not supported by development plan policy and national guidelines, which have changed substantially since the last permission granted for the site. In particular I note the sites proximity to the Adamstown STZ, which is under development (albeit slowly since the first phase was completed) at a density appropriate to an area subject to significant public investment in rail transport. While the surrounding area is at a typical density for what was an outer suburban area at the time, the site is next to a neighbourhood shopping area, within relatively easy walking distance of a range of schools and other services.

I noted during my site visit that while the main road is straight and narrow, which encourages relatively high speeds for an urban area. There is no cycleway marked on the R120. There is a pedestrian crossing just to the south of the site – somewhat awkwardly located as it does not directly connect with the apparently well-used walkway/cycleway which runs north of the Adamstown development along the boundary with the Finnstown Hotel. My site visit was after school closing time and I noted a number of children on bikes using the cycle path from Adamstown, but then choosing - presumably for sensible safety reasons – not to use the road, but to either ride along the footpath, or walk to the shopping area north of the site, or south to the distributor road entering Finnsgrreen Estate to the south.

The surrounding development had been developed according to an older style ‘distributor road/cul-de-sac’ model, which, combined with the poor level of safety on the R120, leads to a distinct break in connectivity between the Adamstown area and the areas to the east. With regard to the urban design guidelines set out in the development plan, and with particular regard to DMURs, I would therefore consider that it is vital that any development of the appeal site be fully ‘permeable’ with regard to pedestrian and cycling movement in order to allow safe movements, especially for children walking and cycling. For this reason, I would fully concur with the general objective of the planning authority to ensure that open space within the site connect fully and seamlessly with adjoining areas of open space and the adjoining neighbourhood shopping area, and that where possible all walls and barriers next to cul-de-sacs and existing open spaces be removed. I would consider this to be not just a matter of general amenity, but essential to reduce the risk to children created by the location of the main road and the poor location of crossings and entries to the local neighbourhood centre and local estates and links to schools and public transport nodes.

## **Traffic and access**

The proposed development is accessed via a single link road to the R120 with, in the revised plans, what appear to be pedestrian links to

the footpath on the northern side, and a gated access to the neighbourhood shopping area. It is not clear if the location of this link road was considered carefully in the light of the recommendations in Chapter 3 of DMURs, but in overall terms I would consider the internal layout in the revised submitted plans to be broadly acceptable with some reservations. In particular, the use of a long wall and railings to the front would certainly be contrary to the overall objective of improving permeability and the access road along the frontage, parallel to the R120, would seem an unsustainable use of urban land.

The R120 at this point is very long and straight, with good sight lines in either direction. I do not see any issue with an appropriately designed access along the road. This is in line with the overall pattern of recent developments in the area, which has been allowed to develop on the basis of distributor roads joining the R120 - this was in line with guidance at the time, but would be somewhat contrary to the hierarchy encouraged by DMURS and the overall framework for Adamstown.

In general, I do not consider that the proposed access or layout is dangerous or represents a traffic hazard, but I do consider that it could be significantly improved in the light of more up to date guidance.

### **Open Space/trees**

The site is on what was the house and gardens of a significant dwelling going back to at least the early 19<sup>th</sup> Century. It was demolished relatively recently, but elements of the former garden are still visible, most notably a selection of mature trees.

The site adjoins an area of existing open space to the east. The local residents of this estate are clearly concerned at the implications of any merger of open space, and would seem to prefer a wall between the estates. However, as outlined in the section above, such an approach would in my opinion be inappropriate and would in any event be contrary to design advice set out in both the development plan and in national guidelines. In order to aid safe travel by foot and bike through the overall area, connecting with public transport, schools, and local shops, it would be appropriate to use the open space as part of a linking network, so I would strongly concur with the overall approach of the planning authority in this regard.

As the site is largely overgrown and my site visit was in early winter, I was unable to survey the trees in detail. The applicant has provided a detailed arborist report, which I would consider to be an accurate and reasonable. I note that on pp12-13 of the Inspectors report for **PL06S.227208** (the 2008 permission for housing on the site) the issue of preserving trees on the site was dealt with, and in its decision the Board accepted the arguments of the applicant and did not set any conditions relating to protecting trees. The TPO on the site appears to relate to the same trees subject to dispute back in 2008.



The trees subject to TPO are nine trees, mostly on the north-eastern part of the site. All but two are hybrid black poplars. While superficially attractive, these trees are generally unsuitable for urban areas. Their popularity as urban trees in the mid-19<sup>th</sup> Century arose from their tolerance for extreme pollution and poor ground conditions (hence the name 'Manchester Poplar'). But they are prone to shedding branches and have very invasive and destructive root systems. It would appear from the information provided that these trees are not in particularly good condition. One of the other trees is a birch, generally a short lived species which, while very attractive, generally does not do well once disturbed and it would normally be more appropriate to remove and replace with more new specimen trees. The Beech on the site is the largest and most prominent tree on the site, and appears from a distance to be a fine specimen, well worth protecting – although I note from the report that it has been subject to vandalism which may affect its long term stability. In short, I consider that all but possibly one of these trees is wholly unsuitable for protection and I see no reason to change the conclusion of the Inspector and the Board in 2008.

Notwithstanding the TPO, I would consider that the most appropriate design approach to the site would be to focus on a network of open spaces and attractive links across the site, with the small number of key specimen trees identified for incorporation into a landscaping strategy. I don't consider that leaving this area of land on the north and north-east of the site as open space simply because there are existing large trees there represents a sensible approach to the open space layout and design.

### **Residential amenity**

The proposed layout is largely acceptable in terms of internal residential amenity as regards the layout and orientation of the proposed houses. I do not consider that the proposed development, including the proposed removal of barriers between the site and the adjoining estates represents a significant loss of amenity for those dwellings – on the contrary I would consider that linking up existing areas of open space would greatly enhance the amenity of adjoining residential areas.

### **Flooding**

The site is in the catchment of the Griffeen, a tributary of the Liffey. It has not historically been flooded, and there is no indication that there is any flood risk attaching to the site. The development plan sets out a requirement for a SUDS approach to drainage design – the proposed development largely incorporates this approach, but it could be confirmed by condition.

### **Heritage**

The original house on the site seems to have been early 19<sup>th</sup> Century in date, but no significant remains are on site – it was demolished in

line with planning permission. The NIAH lists three structures on the site – the house (Coolamber House), the gate lodge (Coolamber Lodge) and what appears to be part of the gate, which is now gone. None of these are protected structures. The Lodge is still intact but in very derelict condition. I do not consider that it is worthy of preservation, and it does not appear that there are any other structures on the lands which would require protection. There are no recorded ancient monuments on or in the vicinity of the site, and it is not within a zone of known archaeology. There is the possibility of bat roosts on the site (although the submitted surveys found no evidence of any) – I would consider that this could be dealt with by way of a condition for their safe removal under the relevant legislation if they were to be found.

### **Appropriate Assessment and EIA**

There are no Natura 2000 sites in the vicinity of the appeal site. The closest designated sites are those in Dublin Bay – the nearby Griffeen discharges to the Liffey which in turn discharges to the Bay. An AA screening was submitted which concluded that there was no possible impact on the conservation objectives of a Natura 2000 site, and I concur with this conclusion – a stage II AA is not required.

The proposed development is significantly below the threshold set for urban development in the 2001 Regulations as amended. I do not consider that there is any specific environmental sensitivity which would justify a requirement for an EIA.

### **Other issues**

The proposed development would be subject to a S.48 Development contribution, which the planning authority calculates as €864,039.48. It is also subject to a supplementary development contribution (S.49) of €110,200.00 in relation to the Kildare Route Project. The planning authority also set a bond requirement.

There is no indication on file or from other available sources that there is any issue with the provision of water or wastewater to the site.

I do not consider that there are any other significant planning issues arising.

## **12. Conclusions and Recommendations**

I conclude that notwithstanding the zoning designation of the site, the proposed development represents a density of development which is not in accordance with policy H4 of the development plan; the requirements of the 2009 Residential Design Guidelines; the guidelines in DMURS; or the general target densities set out in the adjoining Adamstown STZ. The proposed development would therefore

materially contravene an objective of the development plan in addition to related national and regional statutory guidance.

I do not consider that the material contravention can be dealt with by way of condition as a fundamental redesign of the proposed development would be required to achieve development plan standards. In order to achieve these standards I conclude that the following would be an appropriate set of requirements:

- A minimum of 50 units per hectare (i.e. at least 124 dwelling units in a mix of sizes) based on design principles set out in section 1.4 of the South Dublin County Council Development Plan 2010-2016 and the 2009 Sustainable Residential Development in Urban Areas Guidelines.
- A road and open space layout in line with the requirements of Chapter 3 of the Design Manual for Roads and Streets (DMURS).
- An internal layout of streets and parking in line with Chapter 4 of DMURS.
- A permeable design with the minimum of barriers for pedestrians and cyclists moving within and through the site.
- The preservation where reasonable of appropriate trees and hedges, but with an emphasis on a good quality landscaping scheme involving both open spaces and street trees.

I note that it may not be practicable for the developer to achieve the necessary standard of development in the light of the TPO. I note that if the Board refused solely for a reason relating to the TPO that this would be a non-compensatable reason for refusal.

I recommend therefore that planning permission for the proposed housing development be **refused** for the reasons and considerations set out below.

## **REASONS AND CONSIDERATIONS**

Notwithstanding the planning history and the residential zoning designation of the site, it is considered that the proposed residential development, which is located on a major transport corridor adjoining a bus stop and within 1.2 km walk of a major railway station, is at a density which represents an unsustainable use of urban land and as such materially contravenes the standards set out in policy objective H4 of the South Dublin County Council Development Plan 2010-2016; the density requirements in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009; and the design and layout recommendations in the Design Manual For Urban Roads and Streets. The proposed development therefore materially contravenes the policy objectives of the development plan and national policy and as such represents a substandard design and layout which would therefore be contrary to the proper planning and sustainable development of the area.

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**Philip Davis,**  
**Inspectorate.**  
**26<sup>th</sup> November 2015**